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No.

In the

Supreme Court of the United States

October Term, 1999

*In re* **Lynn D. Johnston,**
Petitioner,
v.
**State of Indiana,**
Respondent.

**On Original Jurisdiction Petition For Extraordinary Writs to the State of Indiana**

# PETITION FOR EXTRAORDINARY WRITS

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## QUESTIONS PRESENTED

*With respect to color of law conduct* and the money judgment entry of a trial court in a broadly illegal, multi-million dollar revenue diversion scheme and *after a state government "civil infraction" charge* had been removed and remanded back to state court *with the suggestion of undertaking standard state appellate process to remedy corruption and civil rights violations:*

**Whether** the State of Indiana can get away with blocking and obstructing state appellate process by citing the predictable consequences of its own acts and omission as *an effective barrier to appellate jurisdiction ; and* **Whether** the State of Indiana properly escapes consequences from a peculiar series of improper if not unlawful conduct occurring in the lower federal courts consisting of omissions of standard procedures, *non-processing and disappearance of Petitioner's critical date-stamped civil rights suit filings* (and later habeas corpus and 7th circuit pleadings), *while it held her non-bailable* 40 days in its lice and disease infested jail *in solitary confinement and while dragging her about shackled and before a trial judge absent all lawful jurisdiction,* and otherwise causing her many deprivations including those of adequate nutrition, access to a shower, eyeglasses, etc.), *all beginning within hours of her refusal to let most wrong-doers go to non-defendant status by their proposed re-writing of her civil rights suit?*

## LIST OF PARTIES

All parties are listed in the caption.

## RULE 29.6 CORPORATE DISCLOSURE

Petitioner is a private citizen, and Respondent is the state of Indiana government, thus there is no parent company nor non-wholly owned subsidiary company to be disclosed.

## TABLE OF AUTHORITIES CITED


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Petitioner respectfully prays that extraordinary writs in the natures of quo warranto, mandamus and prohibition issue to remedy the matters related below.

## OPINIONS BELOW

None of the decisions of the Indiana State Courts related to this matter are reported.

The decision of the Indiana Supreme Court is found Appendix A page 1.

The decision of the Indiana Court of Appeals is found Appendix B page 2.

The removal/remand decision of the US Court is not reported, and is found at Appendix C page 77.

The Dec. 4, '97 and March 26, '98 judgment entries of the trial court are found at the Appendix D page 83, and Appendix E page 84 respectively;

### Related Opinions Below

In re Miss Lynn Johnston v. The Hon. David F. Hamilton, et al., 529 U.S. ___ (2000) Petition for a Writ of Mandamus, den March 29, 1998. [The Hon. Chief US District Court Judge Sarah Evans Barker's squelching of Petitioner's May 7, 1998 civil rights suit No. IP 98-0621 C-B/S & 7th Circuit Appeal (No. 98-3519 /98-3682) with neither reported]; No opinion is reported relative to the Sept. 11, '98 habeas corpus petition and contempt show cause motion of Petitioner (No. IP 98-1012 C-T/G US District Court).

## JURISDICTION

The Indiana Supreme Court entered its decision on January 19, 2000. This Petition is deposited in the US Mail Service within the 90 days allowed.

Original jurisdiction is invoked pursuant to the **United States Constitution, Article III, Section 2, Paragraph 2**, and the **All Writs Act, 28 USC 1651 (a)**.

> **US Constitution, Article III, Section 2, Paragraph 2:** In all Cases...in which a State shall be Party, the supreme Court shall have original jurisdiction.....
>
> **28 USC 1651(a)** The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.
>
> **28 USC 1257** Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows: (2) By appeal where is drawn in question the validity of a statue of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

## Constitutional & Statutory Provisions Involved

**Ind. Const. Preamble:** *TO THE END,* that justice be established, public order maintained, and liberty perpetuated: *WE,* the People of the *State of Indiana,*

grateful to *ALMIGHTY GOD* for the free exercise of the right to choose our own form of government, do ordain this *Constitution.*

**Article 1, *Bill of Rights.***

**§1 Inherent and inalienable rights**

WE DECLARE, That all people are created equal; that they are endowed by their CREATOR with certain inalienable rights; that among these are like, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being. For the advancement of these ends, the people have, at all time, an indefeasible right to alter and reform their government.

**§2 Natural right to worship**

**§3 Freedom of religious opinions and rights of conscience**

**§4 Freedom of religion**

No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights on conscience.

**§5 Religious test for office**

**§6 Public money for benefit of religious or theological institutions**

**§7 Witness competent regardless of religious opinions**

**§8 Oath or affirmation, administration**

**§9 Right to free thought, speech, writing, and printing; abuse or right**

No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever: but for the abuse of that right, every person shall be responsible.

**§10 Truth in prosecutions for libel**

In all prosecutions for libel, the truth of the matter alleged to be libelous, may be given in justification.

**§11 Unreasonable search or seizure; warrant**

The right of the people to be secure in their person, houses, papers, and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

**§12 Courts open; remedy by due course of law; administration of justice**

All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.

**§13 Rights of accused in criminal prosecutions**

(a) In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

(b) Victims of crime, as defined by law, shall have the right to be treated with fairness, dignity, and respect through the criminal justice process; and, as defined by law, to be informed of and present during public hearings and to confer with the

prosecution, to the extent that exercising these rights does not infringe upon the constitutional rights of the accused.

**§14 Double jeopardy and self-incrimination**

No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.

**§15 Persons arrested or confined; treatment**

No person arrested, or confined in jail, shall be treated with unnecessary rigor.

**§16 Excessive bail or fines and cruel or unusual punishment**

Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

**§17 Right to bail and unbailable offenses**

Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident, or the presumption strong.

**§18 Penal code founded on reformation**

The penal code shall be founded on the principles of reformation, and not of vindictive justice.

**§19 Right of jury to determine law and facts in criminal cases**

In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

**§20 Trial by jury in civil cases**

In all civil cases, the right of trial by jury shall remain inviolate.

**§21 Right to compensation for services and property**

No person's particular services shall be demanded, without just compensation. No

person's property shall be taken by law, without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

**§22 Privileges of debtor; imprisonment for debt**

The privilege of the debtor to enjoy the necessary comforts of life , shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale, for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

**§23 Equal privileges**

**§24 Ex post facto laws and impairing contracts**

**§25 Effect of laws**

**§26 Suspension of operation of law**

The operation of the laws shall never be suspended except by the authority of the General Assembly.

**§27 Suspension of habeas corpus; exception**

The privilege of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion; and then, only if the public safety demand it.

**§28 Treason against state; definition**

Treason against the State shall consist only in levying war against it, and in giving aid and comfort to its enemies.

**§29 Treason against state; proof**

No person shall be convicted of treason, except on the testimony of two witnesses to the same over act, or upon his confession in open court.

**§30 Conviction; effect**

No conviction shall work corruption of blood, or forfeiture of estate.

**§31 Right to assemble, to instruction, and to petition**

No law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner, or consult for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

**§32 Bearing arms**

The people shall have a right to bear arms, for the defense of themselves and the State.

**§33 Military subordinate to civil power**

The military shall be kept in strict subordination to the civil power.

**§34 Quartering of soldiers**

**§35 Titles of nobility and hereditary distinctions**

**§36 Freedom of emigration**

*Emigration from the State shall not be prohibited.*

**§37 Slavery and involuntary servitude**

**Article 3, *Distribution of Powers.***

**Ind. Const. Art. 3, § 1 Three separate departments:** The powers of the Government are divided into three separate departments; the Legislative, the Executive including the Administrative, and the Judicial: and no person, charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this Constitution expressly provided.

**Article 4, *Legislative.***

**Ind. Const. Art. 4, § 23 General and uniform laws:** In all the cases enumerated in the proceeding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

**Ind. Const. Art. 4, § 24 The right to sue the state:**

Provisions may be made, by general law, for bringing suit against the State; but no special law authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

### Article 5, *Executive*

**Ind. Const. Art. 5, § 16 Laws faithfully executed:** The Governor shall take care that the laws are faithfully executed.

### Article 6, *Administrative*

**Ind. Const. Art. 6, § 8. State, county, township officers; impeachment and removal:** All State, county, and town officers, may be impeachment, or removed from office, in such manner as may be prescribed by law.

### Article 7, *Judicial*

**Ind. Const. Art. 7, § 1 Judicial power:** The judicial power of the State shall be vested in one Supreme Court, on Court of Appeals, and such other courts as the General Assembly may establish.

**Ind. Const. Art. 7, § 4 Jurisdiction of supreme court:** The Supreme Court shall have no original jurisdiction except in admission to the practice of law; discipline, removal, and retirement of justices and judges; supervision of the exercise of jurisdiction by other courts of the State; and issuance of writs necessary or appropriate in aid of its jurisdiction. The Supreme Court shall exercise appellate jurisdiction under such terms and conditions as specified by rules except that appeals from a judgment imposing a sentence of death, life imprisonment or imprisonment for a term greater than fifty years shall be taken directly to the Supreme Court. The Supreme Court shall have, in all appeals of criminal cases, the power to review all questions of law and to review and revise the sentence imposed.

**Ind. Const. Art. 7, § 6 Jurisdiction of court of appeals:** The jurisdiction of Court of Appeals. The Court shall have no original jurisdiction, except that it may be authorized by rules of the Supreme Court to review directly decisions of administrative agencies. In all other cases, it shall exercise appellate jurisdiction under such terms and conditions as the Supreme Court shall specify by rules which shall, however, provide in all cases an absolute right to one appeal and and to the extent provided by rule, review and revision of sentences for defendants in all criminal cases.

**Ind. Const. Art. 7, § 7 Judicial circuits:** The State shall, from time to time, be divided into juridical circuits; and a Judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit and shall have been duly admitted to practice law by the Supreme Court of Indiana; he shall hold his office for the term of six years, if he so long behaves well.

**Ind. Const. Art. 7, § 8 Circuit courts;** The Circuit Courts shall have such civil and criminal jurisdiction as may be prescribed by law.

**Ind. Const. Art. 7, § 13 Removal of circuit court judges and prosecuting attorneys:** Removal of Circuit Court Judges and Prosecuting Attorneys. Any Judge of the Circuit Court of Prosecuting Attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed from office by the Supreme Court, or in such other manner as may be prescribed by law.

**Ind. Const. Art. 7, § 18 Criminal prosecutions:** Criminal Prosecutions. All criminal prosecutions shall be carried on in the name, and by the authority of the state; and the style of all process shall be: "The State of Indiana."

**Article 8, *Education***

**Ind. Const. Art. 8, § 2** Common school fund: The Common School fund shall consist of....the moneys...**from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue....**

**Ind. Const. Art. 8, § 3 The principal of the Common School fund shall remain a perpetual fund,** which may be increase, but **shall never be diminished; and the income thereof shall be inviolably appropriated to the support of the Common Schools,** and to **no other purpose** whatever.

**Ind. Const. Art. 8, § 7 All trust funds,** held by the State, **shall remain inviolate,** and be **faithfully and exclusively applied** to the **purposes for which the trust was created.**

**Article 10, *Finance***

**Ind. Const. Art. 10, § 3** No money shall be drawn from the Treasury, **but in pursuance of appropriations made by law.**

## STATEMENT OF THE CASE

Late at night on November 24, 1997 **in commission of a felony** under provisions of the Indiana Code, university corporate cops operating beyond their lawful authority, targeted Petitioner for participation in the unconstitutional prosecutorial diversion "program" practiced in Monroe County reportedly since its inception under Prosecuting Attorney Bob Miller (1987-1994).

Application of **Ind. Code sections 9-18-2-29, 9-13-2-1, 9-1-2-43, 9-22-1-2, 9-22-1-1, 35-50-3-2** identify an underlying "bad stop" resulting from the statutorily inadequate and criminally unlawful status of complainant university corporate cops for under-

taking traffic stops solely for ticketing or seizing improperly registered cars under). Moreover, application of the holding in **Fields v. State, (App. 1978), 382 N.E.2d 972** similarly prevents lawful police officers from the same activity unless, concurrently, an additional offense is being committed. The holding directs that anyone whose rights are violated or their vehicle seized should sue for damages rather than resist the unlawful action due to the risks of escalating violence by the police.

Solely upon an State of Indiana accusation of operating an improperly registered vehicle Petitioner's car was seized, and she transport in the back of a marked squad car. In lieu of being jailed, the corporate cops presented her with the option of signing an acknowledgement of service of their signed and sealed criminal complaint and summons requiring her appearance in the county courthouse or being transported to the county jail. Upon her timely courthouse appearance (Dec. 4, 1997) she caused the clerk to file and provide her with a clerk-date-stamped copy of her "Appearance Form Criminal" and when her case number was called, she presented herself as the many other defendants gathered there before her had done. She suffered money solicitation and an attempted arraignment by an unidentified man in an obvious position of authority over all the other executive personnel in the area, later identified as Monroe County Deputy Prosecutor Trulock. There were no Judicial branch personnel in the vicinity. After identifying herself and asking what his name was without getting a responsive reply, Petitioner stood mute and was treated in an intimidating and abusive manner, **and directed to leave by said deputy prosecutor without *being asked to sign any "continu-***

*ing appearance agreement,"* and she did so, *discharging all obligation imposed under the summons* **received Nov. 24, 1997 from the "bad stop."**

The record shows that no standard Warning Letter was sent subsequent to Petitioner's appearance in the courthouse. On Dec. 18, '97 county court judgment notice was sent of the entry that date of a conviction with assessment of a fine (and pending loss of drivers license if not paid) (**Appendix D p. 83**). Petitioner promptly removed the "civil infraction" conviction to federal court, and on Jan. 6, '98, and a remand issued (**Appendix C p. 77**) suggesting she take a state court appeal, which was promptly file (along with the Praecipe to the Clerk for the Court of Appeals (COA) required clerk's certification of the record) in Monroe County Court on Jan. 9, '98. That certification was not fully obtained until Sept. 22, '99 and only then upon the intervention of the COA Clerk's Office. **Appendix B** (and elsewhere) show appeal was blocked by a series of unlawful and/or improper acts and omissions. From that time to the present date Petitioner has not been summoned to appear for anything, and has still not been arraigned or advised and cautioned about her legal rights and privileges.

Upon the state court appeal blocking efforts, relative to which the record shows **the beginning involvement of Indiana Attorney General Jeffrey Modisett** (recently relocated out of state in the computer field) was **on Jan. 7, '98**. Most importantly what followed was the disappearance from the record of the Dec. 18, '97 $82.50 judgment and all process related to its procurement, a number of false and misleading alterations of the record (apparently undertaken by 2 different people), and the declaration of a jury trial to be held before the

90 day time allotment during which the clerk's record certificate should have been produced for the COA. The approximately 11 minute "civil infraction" **(statutorily designated as not an "offense" or "crime")** jury trial exercise was held in the absence of any summons requiring Petitioner's appearance. After the jury (having deliberated about 2 minutes) was dismissed, the judge issued **the maximum $500.00 judgment with direction for the suspension of Petitioner's drivers license** (statutorily allowable in the case of non-payment of the fine) at the BMV and a warrant for her arrest *for an offense. **Thus the maximum lawful penalty had been imposed before Petitioner was jail by the judge and other civil rights suit defendants.***

The university corporate cops have informed Petitioner that she will again be stopped and her car seized and "ticketed" back into the same prosecution diversion "program" if they catch her driving again. Given the fact of said university corporate cop-joint county government "policing enterprise," their "training benefits" accruing from the "collection methods," and the second entry of criminal conviction from a jury "trial" in absentia, with the official loss date of her drivers license being **July 2, '98** according to notice sent by the State of Indiana, exercising her right **(Ind. Const. Preamble & Bill of Rights § 36)** to emigrate or travel in her own private car, has the patently unconstitutional government revenue-generating racket's guarantee of being very costly, inconvenient, and without effective recourse in any office within the State of Indiana. In response to her phone inquiry with the Bureau of Motor Vehicles, Petitioner was informed she will never get her drivers license back unless she voluntarily goes

back the trial court and satisfies the judge (in effect waiving the jurisdictional and traffic case diversion fraud issues she has so very carefully preserved), and that she will never get another license in any other state either because they "all share the information."

Petitioner's May 7, 1998 Civil Rights Complaint, suggesting the temerity to "fight city hall corruption," was cast out and defamed as "intolerable burden on the court" (by the Chief US District Court Judge Sarah Evans Barker **while she was working in an honored legal advisory capacity for several of the defendants and suitable to be inferred as an unforgettable capacity)** *after the process server had served all of the major defendants including the Indiana Attorney General as the record of the returns of service demonstrate,* **but she did not quash the summonses.** Petitioner for cause successfully recused the Chief Judge, and Judge Hamilton (Congressman Lee Hamilton's nephew) was given the case. He essentially rubber-stamped the Chief Judge's order, and it can be inferred he did so without any semblance of propriety or even a cursory examination of the matter **because he also failed to quash the summonses, although he delayed the date set for Complaint dismissal( in the event that it be allowed amendment) after he got the case.** In the interim and additionally in a transparent scheme to assure Petitioner's Complaint would not proceed, her dismissal opposing motion **and** supporting documents to maintain the viable status of her Complaint **were disappeared** from the official record ***concurrent with defendants' retaliatory arrest scheme upon her refusal to re-write the Complaint leaving the several of them out of it*** **with the suggestion that she only sue the hospital and the BMV.** Petitioner personally filed these items in the clerk's office and secured time-

stamped copies for her own record which remain in safe-keeping. Petitioner was held a period of 40 days in solitary confinement in the county jail **until, and for a number of days after, the complaint had been dismissed upon the appearance of her abandonment** and **without** her motion ever being heard, **and while** (after 72 hours) her repeated written demands to the sheriff to immediately be charged with something, or be released went ignored, **and while her duly filed federal habeas corpus petition and motion to hold county court personnel in contempt** of the import of the federal remand order of Judge Mckinney (both pencil written through a "paperbag-pinhole eyeglass" she made in her cell to enable adequate enhancement of her sight to read and write one letter at a time to compensation for intentional deprivation of her eyeglasses by the State of Indiana) **fell on totally deaf ears** (with US District Court deputy clerk refusing to receive the copies provided for distribution, informing Petitioner's court runner that they didn't need them, but the sheriff was served also via documents placed his box in the county court services office). [1]

All subsequent US District Court and 7th Circuit efforts failed with similar receiving clerk irregularities and document disappearances. After the related US Supreme Court petition was denied a hearing, and numerous legal experts and other officials were consulted, Petitioner attempted to proceed with the original Indiana COA appeal with a comprehensive explanation of the appeal blocking conduct and a sworn substitute for the critical $82.50 original judgment which had disappeared from the certified record, requesting transfer to the Indiana Supreme Court due to the jurisdictional irregularities and need

for various remedial action. See **Appendix B.** It should be noted that while litigants have a statutorial right to of review, the jurisdictions of the 2 appellate courts have significant differences.

On background, beginning in late November, 1996 Petitioner, not a member of the Social Security benefits system, made 5 unsuccessful attempts to secure the

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1 US District Court Judge Tinder should have caused Petitioner to be released due to the Jan. 9, '98 Claim of Appeal in light of **28 USC 2251** which provides "A justice or judge of the United States before whom a habeas corpus proceeding is pending, may before final judgment or after final judgment of discharge, or pending appeal, stay any proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding. After the granting of such a stay, any such proceeding in any State court or by or under the authority of any State shall be void. If no stay is granted, any such proceeding shall be as valid as if no habeas corpus proceeding or appeal were pending. He should have also held the State of Indiana in contempt of the import US District Court Judge McKinney Remand Order.

Bureau of Motor Vehicle's acceptance of her car tax/registration assessment, acceptance of which conditions its performance of standard services to which she is legally entitled,[2] and without which she is put in jeopardy of penalties under law.

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2 Petitioner relies on the provisions of the **Indiana Codes 4-1-8-1(b)(1)** which read in relevant parts: firstly

> The bureau of motor vehicles **may**, notwithstanding this chapter, require the following: That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

and secondly on **IC 4-1-8-5**

Petitioner still has no license plate on her car, nor has her title registration been processed, and thus can neither lawfully use, nor dispose of her car. Tax receipt and license plate/registration duties are owed to Petitioner by the State of Indiana. Moreover, Petitioner' liberty has thus been restrained and she remains under threat of university corporate cop/county prosecutors' infliction of further losses and fears other harm. In these circumstances, Petitioner has no other option than to rely on, *to date unavailable* legal process for resolution of her civil rights cause of action, and termination of all such prosecutorial diversion "programs."

**No individual shall be penalized in any manner, such as by the loss or threat of loss of services or assistance or by the denial or refusal to issue an license or permit, by a state agency for his refusal in accordance with the provisions of section 2(a)2(B) [IC 4-1-8-2(B) {governing "any form, application or other writing prepared by or issued under the authority of any state agency" purportedly requiring that a social security number be provided}] of this chapter to provide his social security number to the state agency.** [IC 4-1-8-5, as added by Acts 1978, P.L. 8, §3.]

and thirdly upon the *absence* of federal legislation compelling membership in the Social Security System with respect to people NOT seeking benefits or otherwise participating or formally withdrawn and barred from its benefits, and on application of the **US Const. Art. IV, sec. 2, cl. 1 and 1st, 9th, 10th & 14th Amendments, 42 USC 405 (C)(1)(vi)(v)(ii)&(E) & 5 USC 552(a)(Note),** in expecting the BMV to meet its duty to provide car registration and license plate services to applicants (Amish or otherwise) such as Petitioner without inviting usage of cooperating third parties permitting car registrations under *their* Social Security Numbers. Such an accommodation has been used by some of the Amish (for whom the Bishop allows occasional motor vehicle operation), and others. However, it is an essentially fictitious scheme with (in the event of a serious injury causing accident) enormous potential adverse financial consequences.

## REASONS FOR GRANTING THE PETITION

The state of Indiana destroyed records, added false and misleading records and entries, and denied meaningful access to the necessary documents and official acts necessary to discharge a state court appellant's burden of producing various, signed trial court certificates (clerk, court reporter, and trial judge), and a copy of the true and complete record (numbered, set into volumes, bound, indexed in a very specific way, with extensive hand written margin notations entered thereon by the appellant). Petitioner was unreasonably oppressed and delayed in obtaining the necessary cooperation from such 3 trial court official within a given time frame, and what was provided was without the necessary content recitation and compositional phrases required by the COA, giving a concerted appearance of a series of cooperative acts facilitating an agenda for stifling or obstructing the Jan. 9. '98 appeal by dilatory procedures calculated to run out an appellant's time.

The Indiana Courts by its holding **Wirgau v. State, 443 N.E.2d (1982), and Ford v. State, 650 N.E.2d, 737 (1995)** should be inferred to have no intention of declaring the "civil infraction" scheme, at either the state or local level, as the unconstitutional diversion of revenue which it plainly is, and thus the Indiana courts invite corruption to proceed with its approbation, and local "practices" whatever they may be will not be looked at critically. These should be regarded as extraordinary circumstances in obstruction or denial of fundamental political rights. And in light of the foregoing manufactured procedural and jurisdictional peculiarities, and State constitutional

prohibitions (beginning at page 2 herein) related to diverting revenues away from the Common School Fund, the basis for the redress of grievances brought forth here, are properly addressed with the aid of the ALL WRITS ACT and an exercise of this Court's discretionary, original "Article III, Section 2, Paragraph 2" powers and are properly characterized as corrective, supervisory, and of an enforcement of constitutional standards and statutes in nature, necessitating use of extraordinary writs in the nature of mandamus, prohibition, and quo warranto (particularly in regard to stopping deputy prosecutors from undertaking the prerogatives of judicial branch offices), directed against the **State of Indiana.** Moreover, In circumstances such as these the **RICCO Amendments Act of 1991 (House of Representative s Report 102-312 at page 8)** encourages citizen to operate as "Private Attorney Generals," and Petitioner notes from her legal history studies that the basis for this character of political work goes back more than 200 years and is found in early America law providing for treble damages to be collected against the oppressions or trespasses of rights or privileges against every color of law actor including and specifically "prosecuting attorneys, " and suggests that this Honorable Court be guided by such compensatory intent in these circumstances.

## CONCLUSION

This Petition for relief should be acted on favorably.

Respectfully submitted,

/s/ Lynn Johnston

Miss Lynn Johnston, pro se

Date Submitted: Tuesday, April 18th, 2000

No.

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In the

**Supreme Court of the United States**

October Term, 1999

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*In re* **Lynn D. Johnston,**
Petitioner,
v.
**State of Indiana,**
Respondent.

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**On Original Jurisdiction Petition For Extraordinary Writs to the State of Indiana**

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# APPENDIX

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Deputy Prosecutor Myrna Love
Director of Infractions Diversion Program
Monroe County Prosecutor's Office
301 N. College, Bloomington, IN 47401
812-349-267 FOR APPELLEE

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# MOTION TO BELATEDLY PROCEED

**WITH JANUARY 9, 1998 PRACEIPED CLAIM OF APPEAL**
**&**
**DISCRETIONARY REVIEW of SUBSEQUENT TRIAL COURT PROCEEDINGS & DOCUMENTS**
as praceiped June 18, 1999 and July 12, 1999
**WITH AFFIDAVITS & OTHER SUPPORT**

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**NOTE:** On Sept. 21, '99 the Court of Appeals file clerk, upon taking notice of the appearance of irregularities in the Record tendered and relevant dates on the other required "initial notice documents" received, suggested a motion might be in order to shed light on the apparent delay or unusual circumstances. This Court has jurisdiction to entertain such a motion under **Appellate Rule 9**. Said Record, this Motion with its

support, and Appellant's Brief and Appendix are presented within a 30 day time frame for re-filing, or filing as the case may be.

N O W  C O M E S Defendant-Appellant Miss Johnston to show grounds why this Honorable Court should proceed with comprehensive review of the above referenced Monroe County minor, non-moving "civil infraction" proceedings. But for appeal-blocking acts and omissions improperly affecting the



Monroe County Courthouse Record and the subsequent undertaking of improper proceedings to frustrate and stymie Miss Johnston and appellate review, this matter would have been promptly placed before this Court not later than Monday, Feb. 9, '98 by virtue of the duly filed and served Jan. 9, '98 Praecipe for the lower court record **(Record p. 58)**. How the hereinafter and elsewhere alleged "Traffic Diversion Racket" of Monroe County operates is demonstrated in **Appellant's Brief Appendix Document B.** The appeal-blocking conduct is dealt with below and factually referenced in **Appellant's Brief.**

(1st) **<u>This Court's Jurisdiction Is Not Defeated By Procedures in Transition</u>**

**Ind. Appellate Rule 2(A)** governs initiation of the appeal. The time frame during which an appeal could have been initiated was between the judgment date of Dec. 18, '97 and Jan. 17, '98. Although the critical jurisdict-

ional act for preserving the right of perfecting an appeal under **App. R. 4(A)** (the filing of the praecipe in the lower court) did not change, some procedural changes did occur about this time. Miss Johnston was not aware that her "notice" time frame potentially fell a few days after the imposition of a new procedure governing additional service of such notice (with certain relevant data added) upon the Court of Appeal. There was no obvious notice of any such procedural change at the appeal-notice receiving-counter of the Monroe County Courthouse on Jan. 9, '98 when she filed and served her notice and praecipe, nor was any verbal alert given by the receiving clerk. It was much later understood from general practice manual pocket notes, that claims with dates

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around the time of the procedural change such as her claim, would be received as tendered, pending correction of the procedural deficiencies, and this occurred with the Sept. 21, '99 Notice filings in this Court.

(2nd) **A Praecipe Can Embrace Subsequent Matters**

The 2 additional praecipes were needed to include in the Record 69 pages of post-judgment transcripts related to a "jury trial in absentia" (Mar. 26, '98) and the arrest and imprisonment/"contempt hearing" (Jul. 17, '98). In light of the fact that the additional

Jun. 18, and Jul. 12, '99 Praecipes **(COA Sept. 21, '99 Notice filing last page & next to the last page)** are for *post-Dec.18, '97-Judgment* proceedings, *if it were to be questioned* whether the Jan. 9, '98 Claim of Appeal and Praecipe were prematurely filed, or whether the additional praecipes should have been filed earlier (regardless of any improper appeal-blocking), legal precedent indicates that a praecipe (such as that of Jan. 9, '98) is continuing in nature and therefore serves to bring those subsequent matters (such as a "trial in absentia," etc.) into the record for appeal. **Haverstick v. Banat, 165 Ind. App. 275 (1975); 331 N.E.2d 791.**

(3rd) **No Interim "No Progress Docket" Process Transpired**

At no time between the Jan. 9, '98 initiation of her appeal under the former procedure, and the "correction of deficiencies" at the Court of Appeal on Sept. 21, '99, was any known process undertaken to strike her Claim of Appeal or subjected it to the operation of any "no progress" docket procedure.

(4th) **Authentication Of The Genuine Judgment Is Presented**

**Exhibit One,** the "Default Judgment Authentication Affidavit," identifies and authenticates the copy of the Dec. 18, '97 Default Judgment Entry Notice which was

made a part of the **COA Sept. 21, '99 Notice filing, p. 4**, as being an exact copy of the one served upon Miss Johnston. *This is the same Judgment* referred to on page 1 of the **Jan. 9, '98** Claim of Appeal **(R. 65)**. *It is the same Judgment* referred to in the Jan. 2, '98 Federal Removal Notice **(R. 95, 113)**. *Nonetheless, it is NOT otherwise found* in the 1 vol. 144 page Record *except and only as a non-clerk-date-stamped copy from said Removal Notice,* easily discernible by its Federal Removal page number of "9" **(R. 85, 90, 119).** Such page number would not be present on the Monroe County Clerk's normal file document. Miss Johnston submits that **Exhibit ONE's** authenticative purpose and value is adequate under the circumstances to overcome the missing or concealed lower court Clerk's file document which presumably would bear the Clerk's date-stamped of Dec. 18, '97.

(5th) **Default Judgment Is Appealable**

The Dec. 18, '97 Default Judgment **(Exhibit ONE & COA Sept. 21, '99 Notice filing p. 4)** officially determined the prevailing party between the litigants and put an end to the dispute by notice of how much money was to be paid to whom and under what collection practice, and is thus an appealable order. **Dopernalski v. City of Michigan City, 619 N.E.2d 584, 585 (Ind. Ct. App. 1993); Matter of Guardianship of Green, 525, N.E.2d 634, 635 (Ind. Ct. App. 1998).**

(6th) **Substantial Record / Evidence Tampering for Appeal Blocking Exists Below**

The certified docket record produced Jan. 22, '98 became the subject of the "Chart Analysis" in the May 7, '98 civil rights suit, and is **Exhibit TWO** in support of this motion. It fails to evidence the recording of (1) the Appellant's Dec. 4, '97 "Defendant's Appearance Form Criminal;" (2) the Prosecutor's "Defendant's Appearance Hearing Entries" **(R. 120)** (which includes a handwritten-entry-

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scheduling of an otherwise unnoticed and unreferenced jury trial for Jan. 9, '98 at 9 am); (3) Appellant's Dec. 8, '97 "Demand for Trial by Jury with Certificate of Service;" and (4) the Clerk's Dec. 18, '97 Default Entry of the money judgment for a sum certain.

On the other hand, items which should *at minimum* be suspected of being improperly added to the *untimely Jan. 22nd certification production* include (but are not limited to) the following remarkable things:

> **(A)** a docket entry represented as being made on Dec. 18, '97 stating that "a Warning Letter had been mailed" although it must be observed that no such letter appears in the certified copy of the file, and Miss Johnston never received any such document (a subsequent entry cleverly states that this entry was

made in error); and
**(B)** a docket entry represented as being made on Dec. 29, '97 , upon the "court having reviewed" the jury trial demand (not then on the docket) therefore '"sets the matter for jury trial on Mar. 26, '98." --- which creates a puzzling situation in view of the 'on the record' item "(2)" above (which if taken at its face value and under the assumption that no one would dare add such a piece of trial scheduling information after the fact *to an already existing ' date-established' document*----something Appellant Miss Johnston is NOT willing to assume in Monroe County), but the puzzle is solved if there were 2 "record fixer" one of whom is far more clever than the other.

Unpleasantly it must be observed that if a jury trial had actually been scheduled *as recorded (as one is led to believe)* for Jan. 9th and this scheduling was a matter of fact *before the production of the Jan. 22nd certification*, then the trial judge/"the court" would have known it (and presumably Miss Johnston would have been

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informed of it before the end of the year, which did not happen). And if on Dec. 29th (as one is led to believe) "the court" had in fact reviewed a jury trial demand not on the docket, then "the court" must have reviewed the actual case file...but if this were true, "the

court" would have seen that the trial was scheduled for Jan. 9th and had been so scheduled since early Dec., '97 if indeed such Jan. 9th trial date had in fact been handwritten on the record by the represented time of review (Dec. 29th). The fact that the anonymous entry at Dec. 29th was made with the notation that notice was to be sent out by regular mail is also telltale, because the mailing envelope was privately post-metered as Jan. 2nd which was the 5th day subsequent to the alleged rendering of "Dec. 29th" review and jury trial date-setting. Miss Johnston submits that local Bloomington 1st class mail is reliably 1 day service even when the university is in session (which was not the case), and that she personally checked her mail box on Saturday, Jan. 3rd and such "Dec. 29th" notice was NOT there. It bears acknowledgement that it is known in some offices how past dates can be had from such metering strip equipment, and for this and other reasons Appellant does NOT believe the "Dec. 29th" notice was mailed any time prior to the week beginning Monday, Jan. 5th. Moreover the federal Summons and Removal Notice for Monroe County were post-office-metered locally on Tuesday, Jan. 6th **(R. 122)** and were received the next day, Wednesday, Jan. 7th. On Friday, Jan. 9th, the public record of the case was no longer available for inspection or copies when Miss Johnston appeared in person to file the Claim of Appeal and Praecipe *for the complete, certified record* **(R. 58)**. The deputy clerks reported repeatedly to Miss

Johnston, an inability to get the case file back from the hands of Judges Bridges, Welch and Mann upstairs.

The foregoing examples of "irregularities" give the appearance that 2 different people were "fixing-up" the record to show a jury trial scheduling *made to*

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*look "pre-federal Removal Notice" in origin* ----without knowledge of what the other was doing. And it strongly suggests that they both undertook their remedial efforts after receipt of Miss Johnston's Notice of Removal (which would have been Wednesday, Jan. 7th or thereafter) and that their appeal-blocking plan was settled by the re-availability of the case file for copies on Jan 22, '98.

Miss Johnston's genuine appeal notice and praecipe remain in evidence on the lower court docket and in the case file with the Clerk's Jan. 9, '98 file-date stamps **(R.58, 65; COA Sept. 21, '99 Notice filing p. 6 & 7-8)**, but the similar looking documents **(R. 59-60)** were NOT filed by Miss Johnston and a close examination will reveal perceptible differences between the genuine documents and the interlopers **(Exhibit ONE,** the "Record Chart Analysis with affidavit" from her May 7, '98 civil rights complaint). These are NOT an isolated incident. Miss Johnston submits that all acts, omissions, and proceedings to thwart said original appeal claim including by what should be inferred

to be incidences of backdating and forward dating, are null and void and of no consequence to her. Moreover, given the nature, extent and purpose of the appeal blocking alleged herein and elsewhere, standard procedures for settlement of the Record below appear unwise *because in the interests of justice in the instant case, and correction of the underlying problems for future litigants, the reality needs to be seen, and appropriate inferences need to be drawn from the now existing 144 page certified Record.* Additionally, this Motion's **Exhibits ONE, TWO, THREE & FOUR,** the **Brief's Appendix Document B,** and the federal Removal evidence of [the] Monroe County Record **(R. 81-85, 90-92, 103, 108, 117-120),** as well as a number of the attachment to the COA Sept. 21, '99 Notice filing, demonstrate a pattern of "irregularities" which can not escape being viewed as purposeful when studied in detail and weighed in mass.

**Monroe County Local Court Rules, CR-2B** requires the prosecuting attorney

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to disclose to the defendant all material or information known to the prosecuting attorney which would tend to negate the guilt of the defendant as to the offense charged which would tend to mitigate any sentence imposed in the event of a conviction. Miss Johnston submits that the Prosecutor should have known that (A) the case against her had a suppressible "bad stop origin" long before she did, and he failed to

make the required disclosure, and (B) equally he should have known and disclosed that the Bureau of Motor Vehicles' unlawful policy and conduct in 5 refusals of standard services to her for procurement of the statutorily required license plate, substantially diminished any culpability she may have had, and was a mitigating circumstance potentially rising to an entrapment defense. Continued prosecution in the face of such negating and mitigating circumstances suggests governmental bad faith and improper motives against Miss Johnston personally.

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and is representative of highly improper or illegal undertakings (and more particularly unconstitutional and retaliatory for a whistle blowing origin *(and in the event it is another covert executive department/naval "national security" invasion into the judicial branch matters by Att. Leonard Bergersen,* see **Appellant's Brief' Appendix Document B at p.19-20,** it would be further representative of purely paranoid governmental corruption cover-up/whistle-blower-control operations) and should be widely expose as the 'corruption-under-court-seal' operation such is, and permanently terminated!!! Additionally, Miss Johnston requests this Honorable Court to carefully check its own "bugging" authorization records for unconstitutional covert executive department operations, particularly as related to the instant minor traffic infraction, while ordering-up from Judge Bridges and the

Monroe County Prosecutor "what they have" for both this Court's use and Appellant's forthcoming compensatory litigation.

The major now existing defect in the 144 page Record is the absence of the **original** clerk file-stamped copy of the Dec. 18, '97 Notice of Default Judgment and whatever motion or affidavit was necessary to have procured its entry. This imposing problem became known to Miss Johnston after her receipt of what was mailed by the clerk **on Jan. 22, '98** as the certified Record praceiped Jan. 9th **(Exhibit TWO).** More than any other appeal blocking acts or omissions, the disappearance of said Judgment has been the absolutely stymieing factor, because one appeals real orders in evidence in the Record. Nor is the Dec. 18, 97 Judgment now found on the docket/chronological case summary. Compounding the dilemma will be found abundant and illogical official conduct **(Exhibits TWO, THREE, FOUR).** Inferences of special access and the improper motives they necessitate reach constitutional crisis, if not RICCO levels. The dilemma posed by the conduct below and elsewhere suggests something far more sensitive than just one, non-moving traffic fine is at

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risk. The facts and Record are irreconcilable, and show a criminal contempt for duty, truth and appellate process. Shortly after Miss Johnston filed her Jan. 9, '98 Praecipe and Claim of Appeal, "the court" again by

computer entry only recorded its finding that there was "nothing" for her to appeal **(R. 101 bottom, 102 top)**.

The appeal blockade moved forward on Mar. 26, '98 in the absence of issuance of compulsory process for the attendance of Miss Johnston with the trial court's undertaking of an specious exercise in "trial by jury" in absentia for procurement of a normally non-disturbable guilty verdict and entry the court's Judgment. **(R. 30, 33, 53, 57)**. which was followed by a retaliatory imprisonment....still in the absence of arraignment by any judicial branch or neutral official since being directed to leave her Summoned Courthouse Appearance **(R. 101, 110, & 63, 89, 120)** by "Traffic Diversion Racket" operator-of-the-day, Deputy Prosecutor Trulock. It would defeat the proper function and authority of the appellate review system to allow Monroe County to enjoy "fruits of the poisoned tree," by not proceeding with Miss Johnston's **Appellant's Brief** filed herewith. Particularly in view of

- **(A)** the "political" and personal circumstances in existence,
- **(B)** the belated correction of the COA notice deficiency,
- **(C)** the identification of the case defects, and
- **(D)** the compensating affidavit/ authentication for establishment of the missing Dec. 18, '97 Judgment,

this matter should be regarded as ripe and ready for expeditious, comprehensive appellate review.

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(7) **Improper Interest In Monroe County Is At The Root Of The Delay**

From the aforesaid Jan. 9, '98 Appeal Notice, the normal subsequent procedural formalities have been untimely or remain inextricably stymied as the result of the highly irregular adverse circumstantial factors imposed by Monroe County employees. Appellant is NOT the cause of these problems, but rather their target because she soon knew what she'd stumbled onto, and unlike so many others, [she] was NOT inclined to encourage it by looking the other way. The substance of the appeal revolves around fatal flaws of constitutional dimension in the civil infraction system generally, (see **Appellant's Brief**). This Honorable Court may wish take note of its own observation upon **IC 34-4-32-4 (Ind. Const., Art. 1, §2; Horne v. State, 572 N.E.2d 1333, 1337; (Ind. App. 5 Dist. 1991)** relative to the civil infraction scheme being about money diversion into the State General Fund from the State School Fund, because this matter would not be before this Court now but for Monroe County similarly undertaking to operate a "traffic diversion money racket" to benefit some county funds (the **Brief's Appendix Document B** details the "Running of A Traffic Diversion Racket" as

alleged in Count 13 of Miss Johnston's May 7, '98 federal civil rights suit which was dismissed for "abandonment" while she was held non-bailable in solitary confinement in the Monroe County Jail within hours of declining to re-write said suit leaving out some of its defendants). See **Appellant's Brief** for the laws violated or circumvented in order to run the "Traffic Diversion Racket." This matter now places this Honorable Court in the enviable position of evaluating the damage done to the rule of law under constitutional principles, and determining what it is worth to set an example focused on Monroe County of restoring integrity to the administration of justice upon a case alleging that "they've been getting away with it" for something between about 10 and 20 years.

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(8) **Diligence & Tenacity Shown In Pursuit of Remedies Against Daunting Problems**

While it is acknowledged that there may be an initial appearance suggesting abandonment of review interest, lack of attention or diligence, nothing could be further from the truth. The problems laid against Appellant Johnston as a direct and consequential result of corrupt practices alleged have been, and continue to be daunting (**Exhibit SIX**, the "Personal Consequences Affidavit"). As a result of Monroe County Courthouse denials of basic due process and meaningful access,

including access to a judge, relief through the process of a federal **Notice of Removal (No. IP98-0004-C-M/S)** was sought **(R. 78-87, 90-93, 04-100, 111-119)**, with the Remand **(R. 72-76)** suggesting a state court appeal which was cunningly blocked by the disappearance of the Dec. 18, '98 Judgment and diverted by a mockery of a trial and imprisonment time. With the Monroe County appeal-blocking dilemma quickly interposed against her appeal, a federal civil rights suit seeking injunctive and other relief (including orders prohibiting operation of the "Traffic Diversion Racket" and similar schemes, *and providing for the monitoring and supervision of the proceedings and transactions of the Monroe County Court and Clerk's Office)* was pursued, see **Exhibit FIVE**. Among the named defendants in the 16 Count suit were Douglas R. Bridges (Trial Court Judge), Pat Haley (Monroe County Clerk), Jim Trulock and Jeffrey Kehr (Deputy Prosecutors), Andy Stephenson (Indiana University Corporate Cop), etc., and Monroe County Judges Welch and Mann were cited at Count 12 in an appeal-blocking co-conspirator capacity. The apparent immediate retaliatory result of Appellant's refusal to re-write said civil rights suit leaving out certain of its defendants, was 40 days non-bailable solitary confinement in the Monroe County Jail (under deplorable conditions including inadequate food and nutrition, other hazardous conditions and threats) until after the federal suit

was dismissed on abandonment grounds, and documents unaccountably disappeared from federal clerks' offices, and the like confounding "irregularities."

Legal consultations or attempts to effect suit revival or relief federally extended into June, 1999 and were not successful either through the Seventh Circuit Court of Appeals or the US Supreme Court, nor through the Administrative Office of the US Courts, the Judicial Counsel of the Seventh Circuit, the Director of the Federal Judicial Center, or the Senate and House Judiciary Committees). Congressional staff did however, designate Miss Johnston as someone who should provide Congressional testimony at forth-coming hearings despite her declaration that she did not care bear the expense or inconvenience of travel to Washington. And it should be noted that early on (before Miss Johnston was jailed) the Indiana Legislature's Majority Leader Mark Kruzan's Office was also contacted for relief from the Monroe County Clerk's Office problems, but to no avail with the representation made that county clerks are not impeachable. Interviews were also sought with a number of experienced regional trial attorneys or law businesses, and undertaken with 7 of them, one taking nearly 2 month to evaluate [and return] the documents and causes of action. Retainers as high as $10,000.00 were cited as a pre-condition of filing anything at the Indiana Court of Appeals. Finally after consultation with an eminent appellate

attorney in June, '99, a potentially viable way of compensating for the missing or concealed Dec. 18, '97 Judgment came to light. The Mar. 26, '98 "trial in absentia" and Jul. 17, '98 "arrest and imprisonment/contempt" transcripts were ordered promptly thereafter, and the proceedings' audio recordings were then obtained from the judge's reporter **(Exhibit FOUR).** Given the legal dilemma of improper government-sponsored obstacles and Miss Johnston's personal circumstances **(Exhibit SIX),** she has demonstrated at least sufficient, reasonable diligence and persistence in the face of malice and delay-making situations illegally imposed

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and beyond her control to justify moving forward immediately with the long delayed appellate review.

## CONCLUSION

**Excusable Delay Results From Governmental Bad Faith & Its Consequences**

As demonstrated herein and herewith, all three critical factors for timely and proper perfection of an appeal of right (after establishing the jurisdictional imperative of the filing and service of the praecipe for the record) specifically, (1) the order being appealed, (2) the bona fide court records, and (3) the end of trial court proceedings, were purposefully "tampered with" as a blockade to terminate the natural timely progress of

the appellate review process. It should be noted (1) that Attorney General Modisett was served numerous documents and pleadings including notice of the trial court entry of judgment and threatened collection procedures, the federal removal, civil rights, mandamus, and certiorari documents, but that the habeas corpus documents were refused by a clerk; and (2) Trial Court Judge Bridges involved him **(R. 88)** in this case before the courthouse received the Removal Notice (Jan. 7, '98, see **R.22** for Jan. 6th postmark). Appellant Johnston believes (due to a personally observed pattern over about 20 years as well as firsthand reliable witness reports of similar "irregularities" directed against her interests) that this contact is likely a result of naval or like executive department covert traffic case intervention being initially established by the contents of a restricted mail delivery to the trial court judge.[*]

This fact demonstrates both sophisticated knowledge about how the legal machinery works, and the unconstitutional, if not trea-

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[*Operation Chaos, or the like in which "government intelligence" undertakes to subvert the lives of political activists/whistle blowers by causing an irregular, disruptive character of acts and/or omissions to flow as consequence of covert "administrative measures." Those operating under the auspices of the US Navy affiliation (due to a Civil War era omission in the Posse Comitatus Act), exercise unique "executive prerogatives" for preventing or controlling various, non-democratically-designated "problems."]

sonous willingness to subvert it. Those "bad faith actors" in this matter have violated their oaths of office with malice aforethought, and should bear the full consequences for

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their malfeasance, misfeasance, nonfeasance and crimes. The appeal-delaying consequences of governmental bad faith operations have repeatedly landed on Miss Johnston, thus all appearances of untimeliness should be excused. This Court's disposition of the instant motion determines the fate of that bad faith, illegal conduct as well, and the future of local prosecutorial "deferral enterprises."

Because a timely praecipe was filed and served under then existing jurisdictional procedures, the belated perfection of Appellant Johnston's appeal should advance on this Court's criminal docket, or should be transferred in light of its urgent public nature and Appellant's need for relief. This matter should proceed as an appeal, rather than as a post-conviction relief (PCR) petition in the trial court. The undertaking of the course for post-conviction remedies, is not remotely appropriate in these circumstances because that course of actions means the institutionalized money gathering operation below remains in place for continued cannibalization of the constitutional and statutory law, rights and principles upon which the public perception of justice depends. PCR processing is ruled

out due to ongoing public interests in the lawful administration of justice. And it must be observed that while Miss Johnston's May 7, '98 civil rights suit gave more than fair warning of potential consequences and the need to cease and desist, and atone for wrongs, the "traffic diversion" enterprise has continued with business as usual with additional oppressions and punishments directed at Miss Johnston in obvious retaliation for her "whistle-blowing."

Without this Court's intervention, the Monroe County civil infraction sham and corruption will continue to thrive *after Johnston,* as it has in the decade prior. And while this Court might find appealing a means of simple vacation of the Dec., 18, '97 Default Judgment and trial court proceedings thereafter, leaving Appellant Johnston to her civil rights remedies, the facts raise substantial question of laws and

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wider public policy issues and thus necessitate a far more comprehensive disposition. Otherwise, the "benefits of government" in Monroe County unconstitutionally and corruptly accrue to those controlling the "administration of justice." The message this Honorable Court should send is, if anybody or any combination of people undertake to block an appeal to this Court, there will be a very high price to pay which can include as many criminal contempt confinements as it takes to stop the problem-makers. To hold that the Jan. 9, '98 Appeal

Claim is forfeited under circumstances such as those brought forward by Miss Johnston, would raise substantial constitutional questions concerning inflexible procedural parameters in light of the guarantee of the right of appeal review, and it would reward those below with improper interests in enjoyment of the "fruits of a poisoned tree." For all the foregoing reasons, this motion should be granted.

Thursday October 21st, 1999

/s/(Lynn Johnston)
Lynn Johnston, Esquire
816 Auto Mall Road, No. 243
Bloomington, IN 47401
812-339-7862 APPELLANT / PRO SE

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**IN THE**
**INDIANA COURT OF APPEALS**
No. 53A01-9909-CR-325
[caption details (as prior) omitted]

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## Affidavit in Support of Motion

Lynn Johnston, Defendant-Appellant in the above entitled matter, being duly sworn, states: that she had read the foregoing Motion, that the statements contained therein are true to the best of her own knowledge and belief. Further she says not.

Thursday, October 21st, 1999

/s/(Lynn Johnston)
Lynn Johnston, Esquire
816 Auto Mall Road, No. 243
Bloomington, IN 44701
812-339-7862
APPELLANT /PRO SE

Signed and sworn before me a notary public in and for Monroe County, Indiana on this 21st day of October, 1999. My commission expires: 9-19-2001.

/s/(Katherine M. Wilson)
Notary Public

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**IN THE**
**INDIANA COURT OF APPEALS**
No. 53A01-9909-CR-325
[caption details (as prior) omitted]

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**EXHIBITS IN SUPPORT**

**Exhibit One**.....Page 1
the "Default Judgment Authentication Affidavit"

**Exhibit Two**.....Page 2-13
the "Record Chart Analysis with affidavit" from Appellant Johnston's May 7, 1998 Federal Civil Rights Complaint

**Exhibit Three**.....Page 14-16
the "Affidavit About the Record"

**Exhibit Four**.....Page 17-20

the Audio Cassette Tape & "Off the Record" Immediate Pre-Trial Colloquy Transcript (RE: "salt and pepper are on" courtesy of "the good people at B & E" bugging, and other evidence of bad faith or bias)

**Exhibit Five**.....Page 21-27
the "Relief Sought" from Appellant Johnston's May 7, 1998 Federal Civil Rights Complaint

**Exhibit Six**.....Page 28-29
the "Affidavit of Personal Consequences"
**(Title Page)**

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**IN THE**
**INDIANA COURT OF APPEALS**
No. 53A01-9909-CR-325
[caption details (as prior) omitted]

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**"Default Judgment Authentication Affidavit"**

Lynn Johnston, being duly sworn deposes and says: (1) that the document filed as the 4th page of her Sept. 21, '99 Court of Appeal Notice Filing (the Monroe County Clerk's Dec. 18, '97 Notice of Entry of Default Judgment) is a photocopy of the original in her possession; (2) that said Judgment Notice identifies itself as from "Case Number: 53CO5 9711 IF 07836" which is a "civil infraction" Complaint; (3) that said Judgment Notice represents that payment of

$82.50 is required under the threat of "notification" being sent to "the Indiana Bureau of Motor Vehicles to have your license suspended;" (4) that said Judgment Notice has a handwritten phone number on it, written once with the area code and once without, which she believes suggests that it was carefully and deliberately sent to her with the intent of having her phone to make payment arrangements; (5) that she is certain that said Judgment Notice document is a true copy of the one sent to her because she has not given up possession of the genuine article and therefore can represent with maximum confidence that said copy is authentic, unaltered, and not interposed for any improper purpose; (6) that she believes the local 4th Street Post Office will identify the entity responsible for or directing the usage of the"Postage Meter Number 6809283 Strip" which is found affixed to said Judgment Notice as among the several such meters of Monroe County Courthouse. Further she says not.

Thursday October 21st, 1999

/s/(Lynn Johnston)
Miss Lynn Johnston

Signed and sworn before me a notary public in and for Monroe County, Indiana on this 21st day of October, 1999.
My Commission expires: 9-19-2001.

/s/(Katherine M. Wilson)
Notary Public

**EXHIBIT Page 1 - Document ONE**

[abbreviated] **CIVIL COV**

The JS-44 civil cover sheet and the information contained herein neither replace by law, except as provided by local rules of court. This form, approved by the of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE

I. (a) PLAINTIFFS

Lynn Johnston

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Monroe

(EXCEPT IN U.S. PLAINTIFF CASES)

(C) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

**Lynn Johnston**
**816 Auto Mall Road, No. 243**
**Bloomington, Indiana 47401** **812-335-20707**

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

X 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated Reopened

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS |
|---|---|---|
| ☐ 210 Land Condemnation<br>☐ 220 Foreclosure<br>☐ 230 Rent Lease & Ejectment<br>☐ 240 Torts to Land<br>☐ 245 Tort Product Liability<br>☐ 290 All Other Real Property | ☐ 441 Voting<br>☐ 442 Employment<br>☐ 443 Housing/ Accommodations<br>☐ 444 Welfare<br>X 440 Other Civil Rights | ☐ 510 Motions to Vacate Sentence<br>Habeas Corpus<br>☐ 530 General<br>☐ 535 Death Penalty<br>☐ 540 Mandamus & Other<br>☐ 550 Civil Rights<br>☐ 555 Prison Condition |

VI. CAUSE OF ACTION 42 USC 1983, 1985(2) civil rights sales tax & license plate processing requests from a related to IRS FORM 4029); (B) assignment & persons religiously opposed to and having formally years ago; (C) personal "arrest" with warrantless

VII. REQUESTED IN COMPLAINT: sums by calculation made certain & court costs including attorney fees, and

VIII. RELATED CASE(S) IF ANY Suggested State Court Appeal Action Judge Larry J. Mckinney - Remand January

DATE May 7th, 1998

SIGNATURE OF

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____

ER SHEET IP98 0621 C - B/S

nor supplement the filing and service of pleadings or other papers as required Judicial Conference of the United States in September 1974, is required for the use INSTRUCTIONS ON THE REVERSE OF THE FORM.)

DEFENDANTS Jeff Byrd

**The Bureau of Motor Vehicles Commission, Gary Gibson Commissioner of the Bureau of Motor Vehicles Commission, Dave Martin, "Ann Doe," "Barbara Doe," and Michelle "Doe"; Nancy Carlstedt President of Bloomington Hospital; The Trustees of Indiana University, Paul Norris, Jr., Executive Chief Officer of Indiana University Department of Police, Andy Stephenson, "1st name unknown" Jacobs, and "Alan Doe / male back-up" police officers; "Bob or Carol Doe" Tow-Truck Diver of Ken's Westside Shell; Pat Haley Monroe County Court Clerk; Jim Trulock Monroe County Deputy Prosecutor; & "Unknown Bonding Agents and Insurers."**

ATTORNEYS (IF KNOWN)

Douglas R. Bridges; Jeff Kehr;

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | X 1 | ☐ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff

X Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

deprivations involving: (A) refusal of persons to accept motor vehicle private person not a member of social security (pursuant to rights recording of false and misleading social security numbers against withdrawn from the social security benefits system more than 20 seizure of the unplated vehicle; (D) obstruction of justice ; (E) Etc.

DEMAND $ injunctive relief

CHECK YES only if demanded in complaint.

JURY DEMAND: X YES ☐ NO

BLOCKED by Defendants / Court Records Added, Altered or Missing 6, 1998 of Removal Action # IP 98 - 0004 - C - m/s

ATTORNEY OF RECORD

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
98 MAY -7 PM 3:21

[EXHIBIT Page 2 - Document TWO]

JUDGE MAG JUDGE

## CHART ANALYSIS of Record

| Date, Document, | Defendant Clerk's |
|---|---|
| Nov. 24, '97<br>Cop's Complaint & Summons to appear in Monroe Court Dec.4.'97<br>Front Side ONLY | in file |
| Back Side Absent<br>**No fines & costs**<br>**Fee Schedule** | on docket but<br>**not Clerk-stamped** |
| narrow document (believed to be Deputy Prosecutor's Dec. 4, '97 Notes) copied onto the same sheet of paper as the cop's Complaint & Summons indicating Johnston "Stood Mute. Trial set for Jan. 9, '98 9am. Filed Appearance Form on Dec. 4, 98. Refused to sign. Dec. 8, '97 Requested jury trial." | **omitted** from docket<br>**not Clerk Date-stamped** |
| Dec. 4, '97<br>Plaintifff's Appearance Form Criminal | **omitted**<br>**omitted from docket** ONLY found as p.7 of Removal |

## "Omissions, Additions & Defects" in Sequence

| Plaintiff Record | Federal Record |
|---|---|
| in file | not applicable |
| by personal service **[back side of fee schedule is in file]** | |
| in file | not applicable |
| Clerk date-stamped | |

| | |
|---|---|
| Dec. 8, '97<br>Plaintiff's Demand for Trial by Jury | in file<br><br>Clerk<br>date-stamped |
| Dec. 8, '97<br>Plaintiff's Certificate of Service | in file<br><br>Clerk<br>date-stamped |
| **BOGUS Filing not under the knowledge**<br>Dec. 9, '97<br>Plaintiff's Demand for Trial by Jury<br>[see * at end of Chart] | in file<br><br>Clerk<br>date-stamped |
| **BOGUS Filing not under the knowledge**<br>Dec. 9, '97<br>Plaintiff's Certificate of Service<br>[see * at end of Chart] | <br><br>Clerk<br>date-stamped |
| Dec. 18, '97<br>Monroe "Courts" Notice of Entry of Default Judgment for failure to appear & demand to pay 82.50 by Jan. 8, '98 to prevent action suspending license / unsigned & without a copy of any petition, motion or judicial order | **omitted from file & docket** (ONLY found at p.9 of Removal) |

| | |
|---|---|
| in file<br><br>Clerk<br>date-stamped | not<br>applicable<br>**[EXHIBIT Page 3 - Document TWO]** |
| in file<br><br>Clerk<br>date-stamped | not<br>applicable |
| **or authority of Johnston*** | |
| **Properly<br>Absent**<br><br>**NOT filed by<br>Plaintiff *** | not<br>applicable |
| **or authority of Johnston*** | |
| **Properly<br>Absent**<br><br>**NOT filed by<br>Plaintiff *** | not<br>applicable |
| in file | not<br>applicable |

| | |
|---|---|
| Dec. 18, '97<br>Warning Letter<br>to pay fines & costs<br>or appear by Jan.<br>8, '98 | omitted<br>from file<br><br>addition to<br>docket but see Jan. 7,<br>'98 ** entry |
| Jan. 2, '98<br>Plaintiff's federal Notice of Removal with appended documents, issuance of case/clerk summons, Jury Trial Demand, Magistrate's Notice, & Receipt #028812 filed<br><br>The back sides of the 2 documents (Cop's Complaint, & Fee Schedule) at Exhibit p.6 were not copied for the Removal Notice. See Exhibit Five p.1 for back side of Cop's Complaint. | in file ONLY<br>front of summons, civil cover sheet, pages 1,2,3,4,5,7&9 of Removal.<br>pages 6 & 8 ("cops complaint & summons" front & back sides without clerk or prosecutor additions), & (demand for trial by jury with "page "8" at the center of bottom margin) are missing<br><br>not Clerk<br>date-stamped<br><br>docket entry "Defendant files notice of Removal on Jan. 2,'98" when federal docket shows no Notice of Removal until Jan. 7, '98 |
| Jan. 6, '98<br>federal REMAND ORDER signed by Judge McKinney / Case Closed | not applicable |

| | |
|---|---|
| **ABSENT**<br>no letter<br>received | not<br>applicable |
| | **[EXHIBIT Page 4 -**<br>**Document TWO]** |
| in file | filed |
| **[back side of**<br>**fee schedule**<br>**is in file]** | |
| | Time-<br>stamped<br><br>&<br>entered<br>on docket<br>ONLY as<br>filed |
| not applicable | in file,<br>signed &<br>dated by<br>Judge |

| | |
|---|---|
| Jan. 7, '98<br>REMAND ORDER<br>postmarked mail<br>service from Indy<br>by federal clerk | in file<br><br>Not Clerk<br>date-stamped<br>Added as docket<br>entry of Jan. 6,'98 |
| Jan. 7/receipt, 9/filing '98<br>federal Return<br>of Service of Removal<br>Notice & Summons on<br>court/Clerk Haley, made<br>by certified mail & Haley<br>received on Jan.7, '98 | not applicable |
| Jan. 7. '98 * * | no document in file<br><br>docket ONLY Entry<br>"Notice A, 12-18-97<br>Entry made this date<br>was made in error" |
| Purported private post-<br>mark of Jan. 7. '98 of<br>Monroe Circuit Court<br><br>Letter under Judge<br>Bridges' authority to<br>Ind. Att. Gen. Modisett<br>representing "it" was<br>received on Jan. 2. '98<br>by certified mail<br><br>"it" can not be the<br>Removal because the<br>process server didn't<br>affect service until Jan. 7,<br>'98, & according to the<br>letter, "it" was sent with<br>all documentation and<br>"CCS" inform ration from<br>the infraction file. | letter & "it" plus 2<br>types of documents<br>omitted from file<br><br>&<br>all are<br>omitted from docket |

| | |
|---|---|
| in file | in file & |
| Received next day, Jan. 8, '98 | entered on docket |
| in file | in file<br>**[EXHIBIT Page 5 - Document TWO]**<br>entered on docket |
| no service of document or notice provided | not applicable |
| letter only in file | not applicable |
| "it" copies & the 2 other types of documents are Absent | |
| "it" & the 2 other types of documents are subject to a subpoena duces tecum | |

| | |
|---|---|
| Jan. 8, '98 (mailing date) Plaintiff's federal court Notice of Caption, Date & Number Errata, | in file Clerk date-stamped Jan.9, '98 |
| & Proof of Service | in file but not date-stamped, & omitted from docket |

| | |
|---|---|
| Genuine Date Unknown (believed to NOT have been mailed prior to the week of Jan. 5th, '98 | |
| Computer-generated unsigned Notice dated Dec. 29, '97 that: "The court having reviewed the Defendant's request for Jury Trial NOW SETS THIS MATTER FOR JURY TRIAL ON Mar. 26, '98 at 9am with Notice to State of Indiana & defendant by regular mail" | Absent from file |

in file see below

**[EXHIBIT Page 6 - Document TWO]**

stamped
received Jan.
9, '98 &
crossed-out
as void &
returned to
Johnston
with copy of
docket,
unsealed
"police"
summonses,
cover letter.

---

in file not
applicable

The mailing envelope privately post-metered as Jan. 2, '98 which is the 5th day subsequent to the alleged rendering of such purported notice of trial, assuming that neither the computer-dated Notice, nor the postage-meter were back-dated.that such notice is genuine.

Reliably local mail delivery is 1 day. Plaintiff checked her mail box on Saturday, Jan. 3, '98, but this document was NOT there; however, the following week the Clerk Haley was served the Removal, & this Notice of record-review & trial-date-setting was received in my mail.

on docket as entry of "Notice A" at Dec. 29, '97

---

Jan. 9, '98
Plaintiff"s Praecipe to Monroe Clerk for the Transcript of the Record on Appeal

in file

Clerk date-stamped

**see "Genuine Date Unknown Jan. 20, '98" Monroe Clerk docket entry below**

---

Jan. 9, '98
Plaintiff's Certificate of Service for praecipe

in file

---

**[EXHIBIT Page 7 - Document TWO]**

---

| | |
|---|---|
| in file | not applicable |
| Clerk date-stamped | |

---

| | |
|---|---|
| in file | not |
| Clerk | applicable |
| date-stamp | |

---

| | |
|---|---|
| Jan. 9. '98<br>Plaintiff's Claim of Appeal | in file (i.d. by no numbers on the bottoms)<br>**omitted from docket** |
| Jan. 9. '98<br>Plaintiff's Certificate of Service for claim | **omitted from file**<br><br>**omitted from docket** |
| Jan. 9, '98<br>Official Receipt #s 274196 & 274197 of Clerk Haley | **omitted from file**<br><br>docket entry as "Notice A" / 1-9-98 recording that Defendant posts 20.00 appeal costs with clerk PA 33507 |
| **BOGUS Filing not under the knowledge different rubber clerk stamps are being** | |
| Jan. 12. '98<br>Plaintiff's Claim of Appeal for claim<br><br>[see * at end of Chart] | **Addition to file** (#'ed "1" & "2" at bottom of pages by party other than Johnston)<br><br>**omitted from docket**<br>Clerk date-stamped |

| | |
|---|---|
| in file | not applicable |
| Clerk date-stamped | **[EXHIBIT Page 8 - Document TWO]** |

| | |
|---|---|
| in file | not applicable |
| Clerk date-stamped | |

| | |
|---|---|
| in file | not applicable |
| dated Jan. 9, '98 & signed Pat Haley | |

**or authority of Johnston. TWO used. See * at end.**

| | |
|---|---|
| **Properly Absent** 1 claim of appeal ONLY on (Jan. 9) was filed by Johnston | not applicable |

**BOGUS Filing not under the knowledge different rubber clerk stamps are being**

| | |
|---|---|
| Jan. 12. '98<br>Plaintiff's Certificate Service for claim | **Addition to file** ( by numbering "2" at bottom of page by party other than Johnston) |
| | Clerk date-stamped |
| [see * at end of Chart] | **omitted from docket** |

**BOGUS Filing not under the knowledge different rubber clerk stamps are being**

| | |
|---|---|
| Jan. 12, '98<br>Plaintiff"s Praecipe to Monroe Clerk for the Transcript of the Record on Appeal | **Addition to file** |
| [see * at end of Chart] | Clerk date-stamped |

**BOGUS Filing not under the knowledge different rubber clerk stamps are being**

| | |
|---|---|
| Jan. 12, '98<br>Plaintiff's Certificate Service for praecipe | **Addition to file** |
| | Clerk date-stamped entered on |
| [see * at end of Chart] | docket |

or authority of Johnston. TWO used. See * at end.

| | |
|---|---|
| **Properly absent** 1 claim certificate ONLY on (Jan. 9) was filed by Johnston | not applicable **[EXHIBIT Page 9 - Document TWO]** |

or authority of Johnston. TWO used. See * at end.

| | |
|---|---|
| **Properly absent** ONLY 1 Praecipe (Jan. 9) was filed by Johnston | not applicable |

or authority of Johnston. TWO used. See * at end.

| | |
|---|---|
| **Properly absent** 1 Praecipe certificate ONLY (Jan. 9, '98) was filed by Johnston | not applicable |

| | |
|---|---|
| Jan. 12, '98 | **Notice &/or ORDER absent from file**<br><br>**Docket Entry ONLY**<br>1-12-98 "Notice: N Praecipe for the Transcript for Record on Appeal filed. Court refers all parties to it's last entry."<br><br>**No indication of mailing such court's instruction to anybody** |

Genuine Date & times Unknown: purported computer recorded time is 09:34:37 Jan. 20. '98

But the **formats &** informational **contents** of the Clerk's record copy is **different** from the Johnston's copy

Computer-generated unsigned Notice (dated Jan. 20, '98) of Jan. 9, '98 Document Entry that Defendant files to Clerk of Monroe County Court, Praecipe for Transcript for Record on Appeal. The court having reviewed same finds there are no appealable matters at this time. The cause remains set for jury trial on Mar. 26, '98 at 9am. Notice to defendant by regular mail.

in file

**Addition** of identifcation data on Clerk's file copy of Judge & Prosecutor to receive notice

| | |
|---|---|
| No Notice received by Johnston | non applicable |

**[EXHIBIT Page 10 - Document TWO]**

| | |
|---|---|
| in file with mailing envelope privately post-metered as Jan. 20, '98 | not applicable |

| | |
|---|---|
| omitted information of names & address for service | not applicable |

| | |
|---|---|
| Jan. 22. '98<br>Monroe Clerk's Bill/Receipt for Copies | in file<br><br>Docket "Notice N" claims these file copies prepared as per praecipes filed on Jan. 9, '98 & Jan. 12, '98<br><br>**Addition to docket**<br><br>**Docket Entry ONLY**<br>Financial information on PAYOR: Johnston added |

* **BOGUS DOCUMENT Filings:** the Clerk date-stampings on all non-genuine filings attributed to Johnston show (under close examination) that the rubber stamps are consistently distinguishable from the stampings on the genuinely attributed filings. This is easily seen by measuring the distance between the rubber ink mark below Clerk Haley's written signature, and the next ink line down (which is all in upper case typed letters), etc.

Defendant Clerk's Docket and file record copy in the underlying traffic case, are found at **Exhibit 7**, and upon examination demonstrate abundant evidence of having been tampered with,

in file

not applicable

**[EXHIBIT Page 11 - Document TWO]**

**Johnston filed ONLY 1 Praecipe (Jan. 9) see*. Bogus filings are being clerk date-stamped with a different distinguishable rubber stamp.**

as is succinctly shown from reading the first three entries of said Clerk's "Chronological Case Summary" -to wit:

1st: (Nov. 26th)--violation filed and hearing set;
2nd: (Dec. 18th)--Johnston failed to appear and warning letter set to pay or appear by Jan. 8th (docketed on Jan. 7th as this entry this date made in error); and
3rd: ("Dec. 29")--Notice of the court's review of Johnston's request for jury trial.

The questioning should begin with how and when did "the court" come to make the alleged review of documents it has no record of having.

**[EXHIBIT Page 12 - Document TWO]**

**Affidavit In Support of**
**CHART ANALYSIS**
**of**
**"Omissions, Additions & Defects"**

The undersigned declares under penalty of perjury that:

1. She has personally relieved [sic */reviewed* ] Defendant Monroe County Court Clerk Pat Haley's January 22, 1998 mailing in response to her January 9, 1998 "praeciping" said Clerk for a certified copy of the record for appeal;

2. She has faithfully and personally photocopied the aforesaid Defendant Clerk's January 22, 1998 official record;

3. She has designated the aforesaid record copies and receipt/bill for services as Exhibit Seven herein;

4. She has faithfully kept and checked her own record of all the documents she has filed and served herself, or herself received by mail or by personal delivery relative to the underlying case lying against her in the Monroe County Court;

5. She has faithfully kept and checked her own record of all the documents she caused a process server to serve and return, and those documents she has personally filed and served, and those documents she received by

mail or by personal delivery from others relative to the Removal Action (of the Monroe County Court traffic case against her) which she filed in January, 1998 in the US District Court, Indianapolis Division; and

6. She has personally and faithfully made the above indicated document analysis, and that the categorizations, designations and statements about documents noted in the foregoing Analysis Chart, are true and correct to the best of her own personal knowledge and belief.

Executed at: Bloomington, Indiana on May 7th, 1998 under penalty of perjury.

/s/ (Lynn Johnston)
Lynn Johnston

**[EXHIBIT Page 13 - Document TWO]**

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**IN THE**
**INDIANA COURT OF APPEALS**
No. 53A01-9909-CR-325
[caption details (as prior) omitted]

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**"Affidavit About the Record"**
Lynn Johnston, Defendant-Appellant in the above entitled matter being duly sworn says:

1. The Monroe County Deputy Clerks have on almost every occasion on which I appeared for copies of the file or docket, had to go the "upstairs judges offices" to actually lay their hands on what purports to be the file, which is invariably controlled by Melissa, Judge Bridges' reporter. In September Melissa in the presence of Deputy Clerk Kim, lied to me by telling me that "that was all there was" in the file as I looked at it in their presence. The reason I knew she was lying, was that within hours of being released from jail (August 24, 1998), I personally appeared in the Monroe County Clerk's office to purchased a copy of the record and docket on the spot (for which the clerk took only 40.00 (disclosing that it looked to her like I should have been given free copies of a lot of the papers anyway). At that time I got copies of **(A)** the many of the pages of messages I had written while in jail, **(B)** a message from Deputy Prosecutor Calvin to Judge Bridges about the address

**[EXHIBIT Page 14-Document THREE]**

of an attorney whose name I believe came to their attention through my correspondence while I was in jail, etc. When I pressed the issue with Melissa, she tried to tell me that any of proceedings while I was in jail would be kept in Judge Todd's private desk file. So I fussed about this unbelievable story and bugged the Clerk to get a hold of the real file, describing the items that would help her know if she had it. Her best efforts did produce a more comprehensive file the next day, but there were still papers I had seen

before that were gone. Additionally, it was obvious that the file Melissa and the new girl came up with for Kim to copy, was not one with the original papers in it. I subsequently returned some days later, to request better copies, particularly of the jail-time "medical motion" and order, and Melissa did make some better copies for me at no extra charge, but one in particular the "medical motion" was still real bad. She then took the purported case file (only recently bound) apart, and told me I could have "that one." It was obvious to me it was not an original, so I took it, made copies for the Court of Appeal Sept. 21., 1998 filing, giving that exact document to the Court as its copy; and

2. The trial court judge corresponded with, and provided documents to the Indiana attorney general about my case **(R. 88)** after he'd received some type of ~~certified~~ [sic] *registered* mail. Because of the timing and summons returns and dated envelopes in the now existing records I have access to, I don't believe that it has to do with service of process for the removal notice, and I do have authoritative documentation that leads me to believe that covert executive branch persons have attempted to intervene in my affairs on some sort of representation designed to promote cooperation in what may be described as a "whistle blower control operation, and that such incidents and irregularities has are too numerous to cite

**[EXHIBIT Page 15 - Document THREE]**

here, but have been brought the Department

of Justice Office of Integrity, etc., and the reason such is disclosed here, is that it may well explain the very odd course of events and extraordinary record irregularities, but it does not excuse lying nor obstruction of justice.

Further she says not.

Thursday, October 21, 1999

/s/ (Lynn Johnston)
Miss Lynn Johnston

Signed and sworn before me a notary public in and for Monroe County, Indiana on this 21st day of October, 1999.

My Commission expires: 9-19-2001.
/s/ (Katherine M. Wilson)
Notary Public

**[EXHIBIT Page 16 - Document THREE]**

**Transcribed *from the audio cassette recording* of the March 26, 1998 Jury Trial *provided* to Defendant-Appellant Johnston *by* Judge Bridges'**
***Court Reporter Melissa B. Starry***

**In the matter of The State of Indiana / Officer Andy Stephenson,** Indiana University Police Department, Plaintiff, versus **Lynn D. Johnston,** Defendant.

NOTE: The significance of this immediate pre-trial colloquy of male voices is that (1) there is a awareness among them of Defendant's prior (January 9, 1998) Claim of Appeal, (2) the Judge makes the admission of a "furious" disposition toward Defendant and "not wanting to push anything to protest," (3) there the instruction by the Judge to NOT "put it under criminal" as "there is no application in here," (4) there is the announcement that "salt and pepper are on" courtesy of "the good people at B&E" (which is "professional undercover jargon" indicating surreptitious breaking and entering of the target's premises (presumably Defendant-Appellant Miss Johnston) for placement of covert surveillance or "bugging" equipment, and (5) there is a decision by the Judge to proceed with "a trial" in the absence of the Defendant. The following transcription involving unidentified female voices believed to be regular court personnel, and 3 males voices identified in the officially certified transcript of "the trial" as Deputy Prosecutor Kehr, Cop Stephenson, & Judge Bridges all 3 of which are identified below only as a male voice.

**Transcript of the Monroe County Court March 26, 1998**
**"Jury Trial-In-Absentia" Immediate Pre-Trial**
**"Off the Record" Colloquy**

Male voice: [unintelligible]...,if she' not going to be here we don't even have to

broach that subject. (male voice laughter).

[unintelligible male voices]

Male voice: We're waitin. {distant unintelligible male voice]...**don't put it under**

**criminal, there is no application in here.**

Male voice: **I don't think that if perhaps she wrote it, and on that stretch of the**

**imagination that it would be valid, the whole thing is making me feel furious...,**

**[EXHIBIT page 17 - Document FOUR]**

**uhm and then**

Female voice: Is she suppose to be coming?

Male voice: uhm, she is voluntarily absentisming today. She called in and said she

may be here or she may not.

Female voice: Aaouh!

Female voice: Hey, this is NOT a standard operating procedure.

Female voice with sarcastic intonation: Well, I'm sorry.

24 Female voice: Hee-hee (laughing)

26 Female voice: (growling-snarling cat/dog like noise made as if in mockery)

28 Same male voice continues: we've got ta,

30 [unintelligible]

32 Same male voice continues: no [unintelligible]

35 Female voice [unintelligible] Do I need to get this on the tape....

37 Male voice: Ordinarily you're not required to write it down.

39 Female voice: Ok.

41 Female voice [unintelligible]...maybe you'd like a break'''get this wrote down.

43 Male voice: **Um the good people at B and E inform me that salt and pepper are on.**

45 Male voice: This is, are we on? [Start of formal record, see R. 125, Tr. line 7]

**[EXHIBIT Page 18 - Document FOUR]**

46 Female voice: Yes.

48 Same male voice: This is 53 C0591 or 9711 IF 736, the state, the state of Indiana

49 versus Lynn D. Johnston. This matter has been set for trial by jury at this time. I

show present the state of Indiana by its Deputy Prosecuting Attorney Jeff Kehr. The

Defendant has elected not be be present. The trial will be conducted to the Jury in

her absence. Please bring the Jury in.

[unintelligible voices and laughter]

Soft female voice: All rise please.

Male voice: ugh, in the box.

[unintelligible male voice and seating noises]

Male voice: Please be seated. Good morning ladies and gentlemen. My name is

Douglas R. Bridges. I'm a Judge of the Monroe County Circuit Court and I'll be

presiding over a jury trial....

## CERTIFICATION OF TRANSCRIPTION

I, Lynn Johnston, Defendant-Appellant in the above-identified "civil infraction" matter hereby certify under penalty of perjury that have spent hours listening, re-listening and transcribing the foregoing from the above identified audio cassette, and that I have put forth my best efforts in so doing and believe the foregoing transcription is as good as possible

without having a professional audio equipment expert "clean-up" the background noise. I have had pre-trial colloquy professional listened to and evaluated by an expert in the field, and I believe I am reliably informed that a finer quality of sound is possible, should it become necessary.

Thursday October 21st, 1999 /s/ Lynn Johnston
Miss Lynn Johnston

**[EXHIBIT Page 19 - Document FOUR]**

RE: State of Indiana v. Lynn D. Johnston, Infraction No. 53CO5 9711 07836

as labeled in the envelope attached hereto will be found

**AUDIO CASSETTE SIDE A [*]**

is the voice recording of the March 26, 1998 pre-trial colloquy and jury trial

&

**AUDIO CASSETTE SIDE B [*]**

is the voice recording of the July 17, 1998 contempt hearing

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**[*] Additional copies of such audio cassette tapes will be provided for US Supreme Court purposes upon request.**

**[EXHIBIT Page 20 - Document FOUR]**

## RELIEF

**WHEREFORE** the Plaintiff, Lynn Johnston, prays judgment against the Defendants, and each of them, jointly and severally in the specified sums by calculation made certain as indicated below:

**Count One**, relative to: acts and omissions of Bureau of Motor Vehicles Commission & its Agents, ——**$10,000.00 as "refused services" compensatory damages for each of the 5 times Plaintiff requested services** and tried to pay the motor vehicle excise tax, procure a license plate, etc. and was refused; **plus $10.00** as compensation for the late payment fee now also due and owing; **plus $2,000.00** as compensation related to inability to sell or trade Plaintiff's car; **plus $100.00 per day** as compensation for each and every day or part thereof from the first date (November 27, 1996) of refusal of services to Plaintiff and continuing into the future for as long it may take until Plaintiff has a license plate attached to her car with the proviso that in the event of Plaintiff's untimely demise or serious injury related to either transportation, foul play, or suspicious circumstances, that said daily payment sums will continue and accrue to the estate of Plaintiff for a period of 40 years and be assessable and payable upon written Notice and Demand from Plaintiff's estate (upon the providing of an Affidavit of incident facts for Count One), plus $550.00 per day as compensation (the approximate daily cost and average gratuity

for a limited hired car {with higher fees charged for going out of the county} with driver) for each and every day or part thereof during which Plaintiff suffers the threat of, or actual suspension or revocation of, her Drivers License as a result of circumstances arising upon or flowing from the herein complained of acts and omissions of the Bureau of Motor Vehicle Commission with such daily damage sums to be assessable upon written Notice and Demand supported by Plaintiff's Affidavit of Facts and filed with the Clerk of this Honorable Court, with said compensation in favor of Plaintiff, and against the Defendants, and each of them, jointly and severally;

**Count Two**, relative to: providing a context (as a result of the acts and omissions of the licensing Defendants in Count One) of prejudicial & coercive

**[EXHIBIT Page 21 - Document FIVE]**

circumstances under which bodily, property & other injuries occur; -----**$71,000.00 as "consequential bodily, property and other compensatory damages"** with said damage sum repeating as the minimum sum compensation for any, and each, and every (unwelcome from Plaintiff's perspective) forthcoming police and/or motorbike incident, or injury occurring and extending through the period during which Plaintiff has no license plate and assignable Certificate of Title for her car, with such repeat sum(s) being summarily assessable upon the filing

of a Notice and Demand therefor supported upon an Affidavit of Count Two incident facts by Plaintiff or on behalf of Plaintiff, if Plaintiff is unable to personally execute such documents, with said compensation and relief in favor of Plaintiff and against the Defendants, and each of them, jointly and severally (with any incident in which Plaintiff is aggrieved beyond such minimum sum process as aforesaid, to be addressed through the opening of this Complaint for amendment thereof by the addition of counts, and/or defendants, and new and additional relief without limitation, and without fees or costs upon Plaintiff);

**Count Three**, relative to: **Social Security System** conspiracy for effecting 100% membership among Bureau of Motor Vehicles Commission, its Agents, and hospital entity, ——**$10,000.00 as the award of "Social Security System membership coercion conspiracy" compensatory damages** in favor of Plaintiff and against the Defendants, and each of them, and each of them;

**Count Four**, relative to: legal conspiracy for infliction of predictable economic & legal pains and punishments by empowerment of cops, clerks & prosecutors nationwide as a result of Count One, ——**$50,000.00 as the award of "legal conspiracy damages" with said damage sum repeating** upon the filing of a Count Four Notice and Demand therefor, supported by an Affidavit of facts, as the minimum sum compensation for any,

and each, and every, forthcoming police, or court incident nationwide, extending through the time period during which Plaintiff has no license plate and assignable Certificate of Title, and including any such court appearances that occur after such date but which flow from such period, with said compensation damage sum(s) in favor of Plaintiff and against the Defendants, and each of them, jointly and severally (and with any incident in

**[EXHIBIT Page 22 - Document FIVE]**

which Plaintiff is aggrieved beyond such minimum sum processes aforesaid, to be addressed though the opening of this Complaint and amendment thereof by additional counts and defendants without further costs or fees upon Plaintiff);

**Count Five**, relative to: tax obstruction of Defendant Bureau of Motor Vehicles Commission & its Agents, -------- **the placement of an ORDER in favor of Plaintiff for a compensation as "tax obstruction" damages** and against the Defendants and each of them, jointly and severally, with the amount of compensatory damages to be **(a)** equivalent to 1,000 times the sum Defendants should have originally collected --48.17-- BUT REFUSED FIVE TIMES from Plaintiff, **OR** **(b)** in an amount equal to the sum of taxes collected through all of Defendant licensing entity's operations on all of the dates Plaintiff tried to the pay tax and related fees, and was refused services - November 27, 1996, December 6, 1996,

January 2, 1997, and December 4, 1997) **with said sums "(a)" or "(b)"** to be used for such public purpose(s) as Plaintiff may directly filing Notice thereof, and with the proviso that in the event of entry of a default judgment, $48,170.00 shall be the applicable sum.

**AND for other judicial relief in the nature of an ORDER** and against the licensing Defendants **(A)** to deter and prevent, or punish, any similar future acts or omissions in the nature of refusal of excise tax payments based upon **Social Security System** membership or non-membership, by providing for the incarceration of Defendant Commissioner for a minimum period of 30 days with 30 days increments for each incident of contumacious conduct irrespective of the individual name of the bad actor, with such incarceration period(s) of whatever duration to also be served concurrently by the individual bad actor, **or preferably (B)** to prevent any similar and other constitutional violations, future bad faith operations, or politically motivated agendas, by requiring the Defendants to return, by certified mail, restricted delivery, with respect to ALL NON-COMMERCIAL MOTOR VEHICLES, ALL ORIGINAL TITLES, also known as the **MSO** or MANUFACTURERS CERTIFICATES OF ORIGIN (see **Exhibit One** p.9-11) to the individual private owners (including Plaintiff) and RECALL FOR DESTRUCTION all related license plates and non-commercial

drivers licenses, prohibiting the licensing Defendants' possession thereof on constitutional grounds for all time in

**[EXHIBIT Page 23 - Document FIVE]**

acknowledgment of the private citizens' right of travel (with the same force and effect as would be appropriate to stop any other expedient scheme (for example, restricting, regulating, or taxing the right of essential self-governing by a poll-tax, or the right of self-preservation by basic food or medicine taxes --all rights that private citizens enjoy so long as they don't threaten the life, liberty or property of others), and to assure timely compliance, imposition of contempt of court penalties against Defendant licensing commission and commissioner upon 30 days notice;

**Count Six**, relative to: malicious and willful conduct of Defendant licensing entities, —— **$50,000.00 as the punitive and exemplary damages award for "malicious and willful license plate deprivation and related problem-causing"** in favor of Plaintiff and against the Defendants, and each of them, jointly and severally;

**Count Seven**, relative to: acts & omissions of hospital entity, ——**$20,000.00 as compensatory "hospital practices" damages in favor of Plaintiff,**

**AND for other judicial relief** by the placement of an **ORDER (A)** in favor of Plaintiff requiring Defendant Carlstedt to

personally either cut-out, "white-out" and initial, or otherwise obliterate and destroy all records said hospital facility has caused to be in existence related to the **Social Security Number** assigned to Plaintiff, and any similarly situated persons, **and (B)** against the Defendant hospital president, to assure correction, deterrence and prevention, or punishment of, any similar future acts or omissions toward the involuntary coloring of records as associated with the **Social Security System**, by providing for the incarceration of said Defendant Carlstedt for a minimum of 30 days with 30 days increments, for each incident of contumacious conduct irrespective of the individual name of the bad actor in her facility;

**Count Eight**, relative to: constructive maliciousness and willfulness of hospital entity, ----**$20,000.00 as the punitive and exemplary award for "malicious and willful hospital" practices damages** in favor of Plaintiff and against the Defendant;

**[EXHIBIT Page 24 - Document FIVE]**

**Count Nine**, relative to: acts & omissions of corporate university policing entities, ----**$20,000.00 as the award for "unlawful policing" damages** in favor of Plaintiff and against the Defendants, and each of them, jointly and severally;

**Count Ten**, relative to: constructive maliciousness and willfulness of corporate

university policing entities, ——**$20,000.00 as the punitive and exemplary award for "malicious and willful corporate university police action" damages** in favor of Plaintiff and against the Defendants, and each of them, jointly and severally,

**Count Eleven**, relative to: unlawful & warrantless seizure by tow truck operator,——**-$5,000.00 as the award for "unlawful empowerment & warrantless seizure and impoundment" damages** in favor of Plaintiff, and against Defendant and each of them, jointly and severally.

**Count Twelve**, relative to: acts & omissions of court clerk & deputy prosecutor, ——**$50,000.00** (for Defendant Clerk Haley's acts and omission) **plus $100.00.00** (for Defendant Deputy Prosecutor Trulock's acts and omission) **as the award for "clerking and prosecutorial basic acts and omissions" damages** in favor of Plaintiff, and against Defendant, each of them, jointly and severally;

**Count Thirteen**, relative to: running of Traffic Diversion Racket by court clerk & Deputy Prosecutor, ——**-$100,000.00** as compensation, **plus** $1,000.00 per hour, or any part thereof, upon, and as a damage consequence of, any cop or police officer occurrence nationwide involving the detainment, arrest, and/or incarceration of Plaintiff as a result of, or arising from, or flowing upon the acts and omissions

complained of, or alleged, or referenced as included, in this Count Thirteen and specifically including but not limited to, the absence of a license plate on Plaintiff's car, and **Judge Bridges'** issuance or publication of the March 26, 1998 Warrant for the Arrest of Plaintiff upon Plaintiff's (or in case of disability for any reason, her agent's) filing of a Count Thirteen Notice and Demand therefor supported by an Affidavit of facts, **plus** $3,000.00 per week, or part thereof, for each and every week during which the herein alleged Traffic Diversion Racket, or "traffic

**[EXHIBIT Page 25- Document FIVE]**

deferral program," or any similarly functioning scheme by any name or description whatsoever, continues to operate in Monroe County with such weekly sum accruing from the date of service of this Complaint and the Summons upon Defendant Clerk Haley with said weekly racket running sum(s) damages to be used for such public purpose(s) as Plaintiff may direct by the filing and service of Notice thereof with the Clerk of this Honorable Court, with said Traffic Diversion Racket damages laying against Defendants, and each of them, jointly and severally, and Plaintiff demands trial by jury,

**AND Plaintiff also requests the issuance of an ORDER** prohibiting the operation of aforesaid Traffic Diversion Racket or "traffic deferral program" AND any similar functioning scheme undertaken by any other name, upon the penalty of incarceration of

each and every facilitator and/or operator of such racket, program, or scheme for a minimum 90 day period with increments in such incarceration periods by 30 days for each individual bad actor's subsequent contumacious conduct,

**Count Fourteen**, relative to: Conspiracy and Obstruction of Justice by Court Clerk & Deputy Prosecutor, **$200,000.00** for Plaintiff's compensation, and against Defendants, and each of them, jointly and severally, and in addition, any reasonable and appropriate sums to be paid and received as this Honorable Court may direct, to offset any cost that may result from the hereinafter sought relief of a federal protective Order causing the monitoring and supervision of the proceedings and transactions of the Monroe County Court and Clerk's Office, with said offsetting costs allotments to be subject to review and adjustment for each and every 2 year period of such protective Order;

AND **for such an ORDER** to provide for protective federal monitoring and supervision of the proceedings and transactions of the Monroe County Court and Clerk Office for a period of not less than two years, and which period shall be renewable for additional two year periods upon the filing of a written NOTICE (without demand or condition of payment of any filing or recording fee), by any person aggrieved of the acts or omissions of said court, and/or said

clerk's office and therefore requesting the continuance of such monitoring and supervision ORDER, with such ORDER providing some prompt and effective enforcement mechanism such as 3 to 30 day contempt of Court Order incarcerations for each and every incident of contumacious conduct occurring during such monitoring and {*supervision period, so that persons having business in the Monroe County Court or Clerk's Office will NOT suffer foreclosure of their state court access rights, due process rights, or corruption and obstruction of justice as has Plaintiff;

**Count Fifteen**, relative to: willfulness and maliciousness, ——**$300,000.00** as Plaintiff's compensation and against Defendants, and each of them, jointly and severally; and

**Count Sixteen**, relative to: liability of bonding agents & insurers, Plaintiff Lynn Johnston claims monetary compensations pursuant to **Counts One through Fifteen** to the full extent of the provisions of the respective policies on each and all Defendants said bonding agents and insurers have undertaken to indemnify.

**As General Justice and Additional Relief, Plaintiff also hereby make Requests:**

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**[The material beginning above, between " {* " this beginning asterisk-bracket and the hereinafter closing asterisk bracket, " *} " was inadvertently not printed on Ind. COA copies, but was otherwise of record.]**

**FOR AN ORDER** voiding and expunging any and all state or national record or data base entries, and including computerized arrest warrant entries, suggesting that the Plaintiff Lynn Johnston has committed, was charged with, or is wanted for questioning or to answer for, any crime or charge arising upon or flowing as a consequence from the failure and repeated refusal of Defendant Bureau of Motor Vehicles Commission and its agents to accept motor vehicle excise tax payments, Certificates of Title registrations, and License Plate fees from Plaintiff;

**FOR AN ORDER** quashing, or causing the Defendants to, in effect, quash, any and all notices, and orders, or the like, revoking or suspending Plaintiff's Drivers License, and including the quashing of any arrest warrants or orders or notices to appear and answer for, or defend, any criminal allegation or charge under color of law, arising upon or flowing from, or as a consequence of the failure and repeated refusal of Defendant Bureau of Motor Vehicles Commission and its agents to accept motor vehicle excise tax payments, Certificates of Title registrations, and License Plate fees from Plaintiff;*}

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**[The material ending above with the closing asterisk bracket, " *} " was inadvertently not printed on Ind. COA copies but was otherwise of record and widely distributed.]**

**[EXHIBIT Page 26 - Document FIVE]**

**FOR AN ORDER or RECOMMENDATIONS** causing a formal investigation for criminal wrongdoing of Monroe County Court Judges Welch, Mann & Bridges to be instituted as well as a formal judicial fitness inquiry by appropriate authorities;

**FOR A RECOMMENDATION** directed to appropriate parties or bodies, to the effect that Defendants Monroe County Deputy Prosecutors Jim Trulock, and Jeff Kehr, and Monroe County Court Judge Douglas R. Bridge, be disbarred, and that Monroe County County Clerk Pat Haley and all the aforesaid BAR members be REMOVED FROM OFFICE and disqualified from holding any public office of trust or profit;

**AND FOR ANY FURTHER ORDER** that may be appropriate, or that justice may require, particularly in light of the ongoing nature of the violations and risk of multiple police, clerk, judicial, and/or prosecutorial incidents against the rights and privileges and interests of the Plaintiff Lynn Johnston;

**AND** Plaintiff requests the costs of this Action, including compensation in the nature of reasonable attorney fees as compensation in an amount commensurate with the appropriateness and complexity of the undertaking, and demands trial by jury.

**[EXHIBIT Page 27 - Document FIVE]**

**IN THE**
**INDIANA COURT OF APPEALS**
No. 53A01-9909-CR-325
[caption details (as prior) omitted]

"Affidavit of Personal Consequences"

Lynn Johnston, Defendant-Appellant in the above entitled matter being duly sworn says:

In addition to all of the damages laid on me from the wrongs involved in the above related litigation as set out in Appendix DOCUMENT B, p. 18-21, since the trial in absentia on March 26, 1998, my circumstances have laid more heavily on me for the reason of lack of ability to use my own car for my basic transportation needs particularly for out of the county medical and other specialist, one of whom the referral to is nearly 2 years old. Persons providing me with transportation for such things in the past are either not available or the situations are problematic, and it can easily be understood the reluctance one might have to accompanying me for root canal removals. My root canals are 20+ years old and there are several that are either abscessed or have tumors, and it looks as though reliable travel without being arrested is not presently possible, so I have delayed this and other increasingly serious health and well being matters. My mother who lives out of state is in her 70 and having health problems,

visiting is made a several day ordeal by public transportation, and is inconvenient for everyone concerned. My father who lived in Arizona was diagnosed with cancer this Spring, and I was unable to provide the

**[EXHIBIT Page 28 - Document SIX]**

assistance that was needed. He died in August and I was not able to get to the funeral, and this has made family matters worse, because I can not adequately explain the car problem, and with a suspended license I can't rent a car. This means I haven't been able to go to my inventors' meetings every month in over a year. My apartment and mail box have been broken into and I have made some police reports. I have also had the postal inspector in Indianapolis undertake an investigation. I was refused priority and Express[™] Mail services for 33 mailers of US Supreme Court petitions this past February and was made to wait more than 8 hours for the actual postmaster to get service, and only then upon the affidavit of the local FBI agent's niece who was privy to relevant facts, an during the wait 2 men came and tried to steal the Court's large box with 300.00 in it. Shortly before I was jailed I made a complaint about having discovered Clipper Chip and Scaler stuff on my computer, which meant somebody had to have broken in my residence to install monitoring equipment and interestingly it was gone after I was release from jail. I have in the past publicly criticized or protested some military operations and have been told by well

informed sources that I have a military problem. Two men posing as Ameritek repairmen attempted to gain access to my residence, relative to which corporate security and the police have been involved. For a time I thought some of the harassment odd circumstances might be related to my association with the Federalist Society as a founding member of the University of Chicago Law School Chapter and Governor Engler of Michigan, as I am part of a select lawyer division group to which he gives much credit for his successes, and it is possible that he could be competing with the Texas Governor for the upcoming party nomination, but my harassment problems are looking Monroe County involved as well. The filing off the steering bolts on my motorbike, could have resulted in my death or another serious injury. Whoever is responsible for operating against me behind the scene needs to be exposed and stopped. Further she says not.
Thursday October 21, 1999

/s/ (Lynn Johnston)
Miss Lynn Johnston

Signed and sworn before me a notary public in and for Monroe County, Indiana on this 21st day of October, 1999.

My Commission expires: 9-19-2001.

/s/ (Katherine M. Wilson)
Notary Public

**[EXHIBIT Page 29 - Document SIX]**

And the Court, having examined said Motion, having examined the attachments thereto, and being duly

advised, now finds that said Motion presents nothing upon which this Court can grant relief for the reasons that the Appellant has failed to invoke the jurisdiction of this Court by timely filing the record of the proceedings or a Petition for Extension of Time Within Which to File the Record following the filing of her initial praecipe and her subsequent praecipes were filed more than thirty (30) days after the trial court order of March 26, 1998, following her jury trial.

IT IS THEREFORE ORDERED that the Appellant's Pro Se Motion to Belatedly Proceed is denied and this attempted appeal is dismissed.

ORDERED this 23rd day of November, 1999.

/s/ (John Sharpnack)
Chief Judge

**United States District Court**
**Southern District of Indiana**
**Indianapolis Division**

**LYNN D. JOHNSTON**
Petitioner,
v. **Cause No. IP 98-0004-C-M/S**

**Criminal Case No. 53 C 05 9711 IF 079[sic]36**
**MONROE COUNTY COURT,**
Respondent.

## ENTRY DISCUSSING REMOVAL OF ACTION AND DIRECTING REMAND

Petitioner Lynn D. Johnston ("Johnston") was issued a traffic ticket in Monroe County, Indiana. Believing that this court presents an available and superior forum in which to resolve the issues raised through the ticket, Johnston has filed a notice of removal.

As explained in this Entry, Johnston's notice of removal is flawed and of no effect. The action must be remanded.

### I Background

The ticket issued to Johnston on November 24, 1997 (the "ticket"), is formally entitled "complaint and summons," and alleges that Johnston operated a motor vehicle in Monroe County, Indiana, without a registration plate, and in doing so violated an Indiana law, Ind. Code §9-18-2-29. The ticket directed Johnston to appear in the Monroe Circuit Court on December 4, 1997, at 1:00 p.m. The "case" to which the ticket is related in No. 53 C 05 9711 IF 079[sic]36.

According to Johnston's notice of removal, she appeared as directed on December 4, 1997, and attempted to ascertain the identity of the man who was supposed to conduct the hearings. Johnston filed a written appearance and requested a trial by jury, but "stood mute" in relation to the entry of a plea. A few days later, she was notified by the Monroe County Court that she had failed to appear and that a default judgment had been entered. Now, asserting that she is unable to effectively assert her federally secured rights in connection with No. 53 C 05 9711 IF 079[sic]36 and that the resolution of that case was a "fraudulent default entry order," Johnston has removed the action from the Monroe Circuit (or the County) Court to this court.

**II. Discussion**

Federal courts are of limited jurisdiction, *Bender v. Williamsport Area School Dist.*, 475 U.S. 534, 541 (1986); *Abercrombie v. Office of Comptroller of Currency*, 833 F.2d 672, 674 (7th Cir. 1987). A district court possesses only the jurisdiction conferred to it by Congress. *See South Carolina v. Katzenbach*, 383 U.S. 301, 86 S. Ct. 803 (1966). Subject matter jurisdiction cannot be created, destroyed, or waived by the parties *See Brady Dev. Co. v. Resolution Trust Corp.*, 14 F.3d 998, 1006 (4th Cir. 1994). Thus, a district court must determine whether it possesses subject matter jurisdiction before it proceeds to the merits of the case. *See Packard v. Provident Nat'l Bank*, 994 F.2d 1039, 1049, (3rd Cir.), *cert denied sub nom., Upp v. Mellon Bank*, N.A., 510 U.S. 964 (1993), and "judges must consider jurisdiction as the first order of business." *Sherman v. Community Consol. Sch. Dist. 21 of Whelling Twp.*, 980 F.2d 437, 440 (7th Cir. 1992), *cert. denied*, 114 S. Ct. 2109 (1994).

Removal jurisdiction is completely statutory, and jurisdictional statutes cannot be construed any broader than their language will bear. *Cook v. Weber*, 698 F.2d 907, 909 (7th Cir. 1983). Jurisdiction in this action is asserted to exist by virtue of 28 U.S.C. §1443(1). Section 1443(1) provides for the removal of a civil action commenced in state court "[a]against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States...." 28 U.S.C. §1443(1).

The supreme Court established a two-part test for section 1443(1) removal petitions in *Johnson v. Mississippi*, 421 U.S. 213 (1975): "First, it must appear that the right allegedly denied the removal petitioner arises under a federal law 'providing for specific civil rights stated in terms of racial equality.'" Id., 421 U.S. at 219 (quoting *Georgia v. Rachel*, 384 U.S. 7880, 792 (1966)). A state court defendant's claim that "prosecution and conviction will violate rights under constitutional or statutory provisions of general applicability or under statutes not protecting against racial discrimination" is insufficient for removal. Johnson, 421 U.S. at 219. Second, it must appear "that the removal petitioner is 'denied or cannot enforce' the specified federal rights 'in the courts of [the State.'" Id. (quoting 28 U..S.C. § 1443(1) (1988)).[1]

In this case, there is no indication that the state court's handling of the traffic ticket issued to Johnston has been associated with laws relating to racial equality. Additionally, as in *Peole v. Lopez*, 919 F.2d 131 (10th Cir. 1990), Johnston seeks removal of a matter from a state court based solely on the assertion that the state court has given her inadequate

procedural protections and has made an erroneous ruling. This will not satisfy the first portion of the *Johnson* test. 421 U.S. at 219. In addition, Johnston does not allege that the state courts will continue to be inhospitable to her federal constitutional claims, despite the fact that she has labored without success up to this point. State courts normally are presumed capable of protecting federal constitutional and statutory rights. Therefore, removal is allowed only where a formal expression of state law or an equivalent basis clearly predicts that the federal rights will not be vindicated in the state courts. *Id.*, 421 U.S. at 219-20.

The following passage from *City of Greenwood*, 384 U.S. at 827-28, 86 S. Ct. at 1812, entirely captures the spirit in which Johnston's removal action must be assessed:

> It is not enough to support removal under § 1443(1) to allege or show that the defendant's federal equal civil rights have been illegally and corruptly denied by state administrative officials in advance of trial, that the charges against the defendant are false, or that the defendant is unable to obtain a fair trial in a particular state court. The motives of the officers bringing the charges may be corrupt, but that does not show that the state trial court will find the defendant guilty if he is innocent, or that in any other manner the defendant will be "denied or cannot enforce in the courts" of the State any right under a federal law providing for equal civil rights. The civil rights removal statue does not require and does not permit the judges of the federal courts to put their brethren of the state

judiciary on trial. Under § 1443(1), the vindication of the defendant's federal rights is left to the state courts except in the rare situations where it can be clearly predicted by reason of the operation of a pervasive and explicit state or federal law that those rights will inevitably be denied by the very act of bringing the defendant to trial in the state court.

The assessment which is compelled from the foregoing is self-evident: Johnston's notice of removal does not satisfy either of the elements necessary to invoke the court's removal jurisdiction pursuant to 28 U.S.C. § 1443(1).

## III. Conclusion

There is, in this case, not even the pretense of a basis for removal under § 1443(1). Under 28 U.S.C. §1446(4), "[t]he United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand." See *Continental Cablevision of St. Paul, Inc. v. United States Postal Service*, 945 F.2d 1434, 1441 n.3 (8th Cir. 1991).

An order of remand shall issue consistent with this Entry.

**IT IS SO ORDERED.**

/s/ LARRY J. McKINNEY. Judge
United States District Court

Date: 1/6/98

1. Section 1443(2) is unavailable to Johnson because it applies only to federal officers and person assisting federal officers in the performance of

## ORDER OF REMAND

The court, having this day made its Entry, directing the remand of the criminal action known as No. 53 C 05 9711 IF 079[sic]36,

**IT IS NOW ADJUDGED AND DECREED** that the purported removal of No. No.[sic] 53 C 05 9711 IF 079[sic]36, in the Monroe Circuit Court is a **nullity** and this matter is now **remanded** to that court. The sending of a copy of this Order and the accompanying Entry shall constitute the remand which is ordered. If petitioner Lynn D. Johnson[sic] or a state court clerk has actually caused the record from the Monroe Circuit Court to be transmitted to this court, it shall be **returned** to that court in an appropriate fashion.

/s/ LARRY J. McKINNEY. Judge
Date: 1/6/98 United States District Court

Copies to:

Lynn D. Johnston
816 Auto Mall Road #243
Bloomington, IN 47401

Monroe County Court
Courthouse
301 North College Avenue
Bloomington, IN 47404

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their official duties. *City of Greenwood, Mississippi v. Peacock*, 384 U.S. 808, 815 (1966).

BLOOMINGTON U.S. Postage

Dec 18 '97 ≡ 0.20 ≡

P B Meter

IN 6809283

TO: LYNN JOHNSON [sic]
816 AUTO MALL ROAD # 243
BLOOMINGTON, IN 474701

You failed to appear 12/04/1997 for your traffic hearing, and a Default Judgment was entered against you. If you do not pay your fine by 01/08/1998, notification will be sent to the Indiana Bureau of Motor Vehicles to have your license suspended.

Case Number: 53C05 9711 IF 07836

Total Due: $82.50

MONROE COUNTY CLERK
P.O. 547
BLOOMINGTON, IN 47402
349-2602
812-349-2602

STATE OF INDIANA )
COUNTY OF MONROE ) SS:
STATE OF INDIANA )

IN THE MONROE CIRCUIT COURT

vs. CAUSE NO. 53C05 9711 IF 078836

LYNN D. JOHNSTON

**JURY TRIAL ORDER**

State of Indiana appears by Jeffrey Kehr and the defendant fails to appear for jury trial this date. The State waives opening statements and witnesses were sworn and evidence heard. The State of Indiana rests and the Jury retires to deliberate.

The Jury returns with following the verdict: We, the Jury, find the state of Indiana has PROVEN its case against LYNN D. JOHNSTON on the offense of NO OR EXPIRED VEHICLE REGISTRATION, a class C Infraction.

The Jury is dismissed and the Court now sentences the defendant to pay a fine of $124.50 plus costs of $75.50, and the cost of assembling the jury of $300.00 because of defendant's failure to appear. Further, the Court now issues a warrant for the arrest for the defendant for failure to appear with CASH BOND of $500.00.

Further, the Court now directs the Clerk of the Court to notify the Bureau of Motor Vehicles of defendant's failure to appear.

**SO ORDERED THIS 26TH DAY OF MARCH, 1998.**

/s/ (Douglas R Bridges)
Douglas R. Bridges, Judge
Monroe Circuit Court Division V

Distribution to: RJO File All Parties